

H.436

An act relating to decommissioning and decommissioning funds of nuclear energy generation plants

The Senate proposes to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 107 is amended to read:

§ 107. ACQUISITION OF CONTROL OF ONE UTILITY COMPANY BY
ANOTHER; SUPERVISION

(a) No company shall directly or indirectly acquire a controlling interest in any company subject to the jurisdiction of the public service board, or in any company which, directly or indirectly has a controlling interest in such a company, without the approval of the public service board. Nothing in this section shall be deemed to affect the direct or indirect acquisition of a controlling interest in a company as defined in subdivision 501(3) of this title. The direct acquisition of the voting securities of a company defined in subdivision 501(3) shall continue to be regulated pursuant to section 515 of this title.

(b) Any company seeking to acquire such a controlling interest shall file a petition with the public service board which describes the acquisition and sets forth the reasons why such an acquisition should be approved. The public service board shall give notice of the petition to the department of public

service and other interested persons, and may conduct a hearing. The board may grant such approval only after due notice and opportunity for hearing and upon finding that such an acquisition will promote the public good.

(c) If the controlling interest sought to be acquired is in a company that owns or operates a nuclear power plant, the finding that the acquisition will promote the public good shall include a determination that the nuclear plant's decommissioning fund and other funds and financial guarantees available solely for the purpose of decommissioning are adequate to pay for complete and immediate decommissioning at the time of the acquisition and that the means are in place to assure on at least an annual basis that these funds and financial guarantees will be adequate for such purpose at all times during the future operation of the plant. The board shall further determine that all such funds and guarantees, whenever furnished and wherever situated, are protected pursuant to Vermont law from any claims or uses other than application to the complete and immediate decommissioning of the plant. For the purpose of this section, "complete and immediate decommissioning" means return of the site to a "greenfield" state in which all equipment, structures, and foundations are removed beginning as soon as technically possible after cessation of operations, in which the facility is not placed in storage for later removal or decontamination, and in which the land is regraded or reseeded.

(d) If any company acquires such a controlling interest without the prior approval of the public service board, the board may then, after due notice and opportunity for hearing,

(1) approve the acquisition; or

(2) modify any existing certificates or orders authorizing either or both companies to own or operate a public utility business under the provisions of this title; or

(3) revoke any such existing certificates or orders, or revoke any orders approving the articles of association of such companies; or

(4) declare the acquisition null and void, all as necessary to promote the public good.

~~(d)~~(e) The board may by rule specify terms and conditions upon which companies shall give prior notice of acquisitions regulated by this section. Any such rule may specify categories of acquisitions that may be deemed to be approved if timely notice has been filed and an investigation has not been initiated by the board.

~~(e)~~(f) For the purposes of this section:

(1) "Controlling interest" means ten percent or more of the outstanding voting securities of a company; or such other interest as the public service board determines, upon notice and opportunity for hearing following its own investigation or a petition filed by the department of public service or other

interested party, to constitute the means to direct or cause the direction of the management or policies of a company. The presumption that ten percent or more of the outstanding voting securities of a company constitutes a controlling interest may be rebutted by a company under procedures established by the board by rule.

(2) "Voting security" means any stock or security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company or any security issued under or pursuant to any agreement, trust or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such a security are presently entitled to vote in the direction or management of the affairs of a company.

(3) A specified per centum of the "outstanding voting securities of a company" means such amount of outstanding voting securities of such company as entitles the holder or holders thereof to cast that specified per centum of the aggregate votes which the holders of all the outstanding voting securities of such company are entitled to cast in the direction or management of the affairs of such company.

Sec. 2. EFFECTIVE DATE

This act shall take effect from passage and shall apply to any petition for approval or for a certificate of public good filed with the public service board on or after January 1, 2008.