

# Vermont Legislative Joint Fiscal Office

1 Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • Fax: (802) 828-2483

## ISSUE BRIEF

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Prepared by Sara Teachout

### Taxation of the Vermont Yankee Nuclear Power Facility

The Joint Fiscal Office has received numerous questions about the current and historical taxation of the Vermont Yankee Nuclear Power Facility. This brief contains information on the taxes and other payments made to the State of Vermont by the facility over the past 35 years. It includes information on the Electrical Energy Tax, the Electric Generating Plant Education Property Tax, as well as payments to both the Radiological Emergency Response Fund and the Clean Energy Development Fund. It does not, however, contain information on corporate income taxes, sales and use, or other tax types paid through the normal course of business activities. Wherever possible, statutory references are included and the final table contains the revenue received since 1972 when the facility first became operational.

#### Electrical Energy Tax (32 V.S.A. §8661)

Prior to 1961, there was a tax on all manufacturers of electrical energy measured by kilowatt hours. The legislature repealed the old tax and several years later replaced it with a new tax on electric generating plants with a name-plate generating capacity of 200,000 kilowatts<sup>1</sup>. There is only one such facility in the state, the Vermont Yankee power plant. Between 1972 and 2004, this tax was set as a percentage of the “appraised value” of the facility. The appraised value was defined as “its original cost less depreciation as reported to the public service board for rate regulation purposes” or net book value. The rate was 1.9% between 1972 and 1991, with a deduction allowed against the state tax for the amount of taxes paid to the local municipality. In 1991, the tax rate was increased to 3.5%, and the credit for state taxes was limited to the municipal tax rate applied to the value of the facility determined by the state.<sup>2</sup> In 2000, the rate was reduced to 2.75% and the credit for municipal taxes was repealed. At the same time, the Electric Generating Plant Education Property Tax (see below) was also added. In 2002 the value of the facility for purposes of taxation, was frozen for one year while negotiations were under way for the sale of the plant.<sup>3</sup> In 2004, the electrical energy tax was restructured to the current generation tax based on the megawatt hours of electricity produced by the facility.<sup>4</sup> The tax is set at a flat amount if generation is within the historical average production range. If the facility produces additional power there is an additional charge per megawatt hour (see Table 1). The generation measure used for calculating the tax is the average of the most recent previous three calendar years, in part to provide stability because of the cycle of refueling outages.

<sup>1</sup> The original electrical energy tax was repealed in 1961, effective July 1, 1965 provided that “the emergency board finds by unanimous vote that an atomic generating plant of not less than 200,000 kilowatt capacity has been constructed in the State of Vermont and has been put into commercial operation.” (Act No. 232 of 1961 and Act No.188 of 1965) This tax was replaced in 1967 by a tax of 1.9% of the appraised value. (Act No. 376 of 1967)

<sup>2</sup> Act No. 32 of 2001

<sup>3</sup> Act No. 144 of 2002

<sup>4</sup> Act No. 50 of 2003

Electric Generating Plant Education Property Tax (32 V.S.A. §5402a)

Prior to the passage of Act 60 in 1997, Vermont Yankee paid local school property taxes to the Town of Vernon. Between 1991 and 2000, the state electrical energy tax liability paid to the General Fund was reduced by a portion of this local tax. With the passage of Act 60, the facility was excluded from the education grand list. Vernon was allowed to assess an education property tax on the municipal grand list value of the facility, but the tax could not exceed the 1997 amount. This tax revenue amount was credited first to the local share liability and then to Vernon's statewide property tax liability.

In 2000, the Electric Generating Plant Education Property Tax was created. The local education property tax was eliminated and the state education property tax was instituted at 2% of net book value, mirroring the structure of the electrical energy tax paid into the General Fund. In 2004, when the electrical energy tax changed to a production-based tax, the education tax was also changed to the same base. The tax rate is based on the megawatt hours of power generated and is structured the same as the electrical energy tax (see Table 1).

**Table 1 - Current Law Tax Structure**

<b>Megawatt Hours Generated<sup>[1]</sup></b>	<b>Electrical Energy Tax (General Fund)</b>	<b>Electric Generating Plant Education Property Tax</b>
Less than 2,300,000	\$2.0 million	\$1.465 million
Between 2,300,000 and 3,800,000	\$2.0 million plus \$0.40 per MWH greater than 2,300,000	\$1.465 million plus \$0.29 per MWH greater than 2,300,000
Between 3,800,000 and 4,200,000	\$2.6 million	\$1.9 million
Greater than 4,200,000	\$2.6 million plus \$0.40 per MWH greater than 4,200,000	\$1.9 million plus \$0.29 per MWH greater than 4,200,000

[1] Average of the previous three calendar years.

Both the Electrical Energy Tax and the Electric Generating Plant Education Property tax contain provisions that exempt the facility from any tax if no electricity is generated due to the termination or expiration of a necessary license or permanent cessation of operations.

In addition to the taxes described above, Entergy Nuclear Vermont Yankee also makes payments into two state special funds described below:

Radiological Emergency Response Plan Fund Payments (20 V.S.A. §38)

These funds are paid by any entity operating a nuclear reactor or storing nuclear fuel and radioactive waste in this state. The amount is submitted each year by the Administration and approved by the Legislature in the annual appropriations bill. Prior to 2003 the Radiological Emergency Response Plan Fund (RERP) was administered by the Department of Finance and Management. Since 2003, the Department of Emergency Management administers the fund.

Clean Energy Development Fund Payments (10 V.S.A. §6523)

The Legislature authorized dry cask storage in Vermont in 2005 and as part of that agreement, created the Clean Energy Development Fund (CEDF). The deposits into this fund are established in two agreements, or memorandums of understanding (MOU) between Entergy Nuclear Vermont Yankee and the Vermont Department of Public Service:

1) the Uprate MOU,<sup>5</sup> and 2) the Dry Fuel Storage MOU.<sup>6</sup> The Uprate MOU payments are based on the amount of additional power produced as a result of the uprate and the payments are calculated based on the price received for the power. There is also a one-time initial payment of \$200,000. Total payments are estimated to be approximately \$24.1 million. The Dry Fuel Storage MOU established quarterly payments of \$625,000 totaling \$15,625,000 over a six year period between 2006 and 2012.

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<sup>5</sup> Public Service Board Docket 6812

<sup>6</sup> Public Service Board Docket 7082 dated 6/21/05

Table 2 - Vermont Yankee Payments to the State of Vermont

Fiscal Year	Electrical Energy Tax (General Fund)	Electric Generating Plant Education Property Tax	Radiological Emergency Response Plan Payments	Clean Energy Development Fund Payments
2013				756,872
2012	700,000	500,000	1,600,000	6,039,402
2011	2,800,000	2,100,000	1,600,000	6,363,918
2010	2,800,000	2,100,000	1,600,000	7,126,936
2009	2,800,000	2,100,000	1,600,000	6,800,404
2008	2,800,000	2,100,000	1,696,435	7,036,256
2007	2,700,000	2,000,000	1,360,440	4,252,287
2006	2,600,000	1,900,000	1,315,357	1,450,000
2005	2,600,000	1,900,000	925,683	
2004	2,767,228	1,874,420	800,000	
2003	2,577,328	1,874,419	800,000	
2002	2,809,858	2,212,646	400,000	
2001	3,117,915	2,322,486	400,000	
2000	3,274,246	2,433,400	400,000	
1999	3,575,102	2,629,820	400,000	
1998	3,351,508	2,292,773	300,000	
1997	3,258,242	2,928,663	300,000	
1996	3,484,492		300,000	
1995	3,974,270		300,000	
1994	4,206,188		300,000	
1993	4,406,455		300,000	
1992	4,662,752		300,000	
1991	2,397,873		300,000	
1990	463,680		300,000	
1989	1,148,957		250,000	
1988	1,642,272		250,000	
1987	1,915,398		250,000	
1986	1,805,381		250,000	
1985	1,761,206		250,000	
1984	2,153,383		250,000	
1983	2,244,869		250,000	
1982	2,455,854			
1981	2,593,524			
1980	2,713,792			
1979	2,733,963			
1978	2,756,293			
1977	2,868,768			
1976	3,155,279			
1975	3,207,648			
1974	3,204,411			
1973	2,171,947			

Blue are ESTIMATES

Yellow are Education Property Taxes Paid to Vernon

Sources: Vermont Department of Taxes; Department of Finance and Management, Department of Public Service; Department of Public Safety; January 2007 Consensus Revenue Forecast