

From: Valerie Desmarais
Sent: Sunday, April 14, 2013 2:58 PM

Subject: Federal Recommendations Wind Siting

To the Siting Commission:

I have attached excerpts from this document for your review.

There are good recommendations re: wildlife conservation with respect to wind energy developments. Please note the specific recommendations re: a “precautionary approach to site selection and development”

INTERIM GUIDELINES TO AVOID AND MINIMIZE WILDLIFE IMPACTS FROM WIND TURBINES

From the US Department of the Interior
Fish and Wildlife Service

However, wind energy facilities can adversely impact wildlife, especially birds (e.g., Orloff and Flannery 1992, Leddy et al. 1999, Woodward et al. 2001, Braun et al. 2002, Hunt 2002) and bats (Keeley et al. 2001, Johnson et al. 2002, Johnson et al. 2003). As more facilities with larger turbines are built, the cumulative effects of this rapidly growing industry may initiate or contribute to the decline of some wildlife populations (Manes et al. 2002, Johnson et al. 2002, Manville 2003). The potential harm to these populations from an additional source of mortality or adverse habitat impacts makes careful evaluation of proposed facilities essential. Due to local differences in wildlife concentration and movement patterns, habitats, area topography, facility design, and weather, each proposed development site is unique and requires detailed, individual evaluation.

Data on wildlife use and mortality collected at one wind energy facility are not necessarily applicable to others; each site poses its own set of possibilities for negative effects on wildlife. In addition, the wind industry is rapidly expanding into habitats and regions that have not been well studied. The Service therefore suggests a precautionary approach to site selection and development, and will employ this approach in making recommendations and assessing impacts of wind energy developments.

The guidelines contain a site evaluation process with checklists for pre-development evaluations of potential terrestrial wind energy development sites (Appendix 1). Use of this process allows comparison of one site with another with respect to the impacts that would occur to wildlife if the area were developed. The evaluation area for a potential development site should include the "footprint" encompassing all of the turbines and associated structures planned for that proposed facility, and the adjacent wildlife habitats which may be affected by the proximity of the structures, but excluding transmission lines extending outside the footprint. All potential development sites within a geographic area should be evaluated before a site is selected for development.

Pre-development evaluations should be conducted by a team that includes Federal and/or State agency wildlife professionals with no vested interest (e.g., monetary or personal business gain) in the sites selected.

1. Identify and evaluate reference sites, preferably within the general geographic area of the proposed facility. Reference sites are high-quality wildlife areas where wind development would result in the maximum negative impact on wildlife (i.e., sites selected to have the highest possible rank using the protocol). Reference sites are used to determine the comparative risks of developing other potential sites.
2. Evaluate potential development sites to determine risk to wildlife and rank sites against each other using the highest-ranking reference site as a standard. Although high-ranking sites are generally less desirable for wind energy development, a high rank does not necessarily preclude development of a site, nor does a low rank automatically eliminate the need to conduct predevelopment assessments of wildlife resources or post-development assessments of impacts.

1. Avoid placing turbines in documented locations of any species of wildlife, fish, or plant protected under the Federal Endangered Species Act.

2. Avoid locating turbines in known local bird migration pathways or in areas where birds are highly concentrated, unless mortality risk is low (e.g., birds present rarely enter the rotor-swept area). Examples of high concentration areas for birds are wetlands, State or Federal refuges, private duck

clubs, staging areas, rookeries, leks, roosts, riparian areas along streams, and landfills. Avoid known daily movement flyways (e.g., between roosting and feeding areas) and areas with a high incidence of fog, mist, low cloud ceilings, and low visibility.

3. Avoid placing turbines near known bat hibernation, breeding, and maternity/nursery colonies, in migration corridors, or in flight paths between colonies and feeding areas.

4. Configure turbine locations to avoid areas or features of the landscape known to attract raptors (hawks, falcons, eagles, owls). For example, Golden Eagles, hawks, and falcons use cliff/rim edges extensively; setbacks from these edges may reduce mortality. Other examples include not locating turbines in a dip or pass in a ridge, or in or near prairie dog colonies.

5. Configure turbine arrays to avoid potential avian mortality where feasible. For example, group turbines rather than spreading them widely, and orient rows of turbines parallel to known bird movements, thereby decreasing the potential for bird strikes. Implement appropriate storm water management practices that do not create attractions for birds, and maintain contiguous habitat for area-sensitive species (e.g., Sage Grouse).

6. Avoid fragmenting large, contiguous tracts of wildlife habitat. Where practical, place turbines on lands already altered or cultivated, and away from areas of intact and healthy native habitats. If not practical, select fragmented or degraded habitats over relatively intact areas.

From: Pam Arborio
Sent: Saturday, April 13, 2013 4:52 PM

Subject: Fwd: Check out "Never reported by the Maine Media: Maine's wind potential is 89% below the national average" on Citizens' Task Force on Wind Power - Maine

Begin forwarded message:

From: Rob Pforzheimer
Date: April 13, 2013 12:55:41 EDT
Subject: FW: Check out "Never reported by the Maine Media: Maine's wind potential is 89% below the national average" on Citizens' Task Force on Wind Power - Maine

[Citizens' Task Force on Wind Power - Maine](#)

[Long Islander](#)

Check out the blog post 'Never reported by the Maine Media: Maine's wind potential is 89% below the national average'

Blog post added by [Long Islander](#):

The wind industry has told us repeatedly that "Maine is the Saudi Arabia of Wind". Moreover, by enlisting locally known figures to repeat t...

Blog post link:

[Never reported by the Maine Media: Maine's wind potential is 89% below the national average](#)

About Citizens' Task Force on Wind Power - Maine

A coalition of citizens advocating responsible, science based, economically and environmentally sound approaches to Maine's energy policy.

554 members

48 discussions

513 photos

1419 blog posts

105 videos

Submitted on Monday, April 8, 2013 - 19:04 Submitted by anonymous user: [70.215.29.27] Submitted values are:

Name: Tom Gray

Town: Norwich

Organization: Consultant - American Wind Energy Association

Title: Consultant

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:

- Wind

- Other Energy Sources, Facilities or General Comment

3) Comment :

Thanks to those who have served on the Siting Commission on behalf of the public interest. It's evident from the material produced that the Commission has taken its job very seriously.

I understand by the grapevine that anti-wind commenters have frequently outnumbered pro-wind commenters at the public hearings. I urge you to not be unduly swayed by this imbalance. Several credible public opinion surveys over the past several years have found that an overwhelming majority of Vermonters favor wind projects in the state, even when the choice is baldly stated as "ridgeline wind." There is a serious danger in our small state that a well-funded, well-organized minority will distort the public debate by flooding a variety of discussion fora such as online comments, public hearings, etc., to the detriment both of the majority and the public good.

In general, I endorse the comments that have been submitted by Renewable Energy Vermont (REV).
Additionally:

- I believe the Section 248 process, as it has been negotiated over the years among all stakeholders in Vermont, provides an appropriate balance in the siting of energy projects between the interests of all Vermonters and the interests of local communities. We all know what is at stake--if local communities are given veto power, the ability to site energy projects will be seriously impaired as the power of a noisy few becomes even more magnified.

- It's clear that the problem of climate disruption due to global warming is critically urgent. The Arctic ice cap has shrunk far more rapidly than expected, and the past few years have brought extraordinary droughts, floods, and heat waves to Vermont and other parts of the U.S. While I know it is not politically palatable, the truth is that we should be doing everything we can to encourage development of zero-carbon energy as rapidly as possible.

Again, thanks for your attention.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/942>

Submitted on Monday, April 8, 2013 - 20:27 Submitted by anonymous user: [71.11.17.15] Submitted values are:

Name: Patrick Ciriello

Town: Newbury

Organization: Hawks Mountain Consulting

Title: Owner

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment :

I am sure that the list below is familiar to everyone at this point. I am in favor of pursuing all possible "green" oriented solutions to the power needs of our communities, particularly those involving wind, solar, and geothermal.

As a business owner, land owner, and someone who is familiar and very much supports Vermont's goals for maintaining the natural condition of the State, we must also be realistic in accepting the facts of climate change, the damage non-"green" energy sources are doing, and the impact locally and globally it is having. Vermont, and much of the rest of the world, *must* change the way it handles these issues - the climate *is* going to change, and so will the way of life of everyone on the planet. Collectively, we've already wasted 30 years - we cannot afford any more delays.

1. Vermont has a very stringent siting review process for renewable energy projects. The V.S.A. 30, Section 248 Certificate of Public Good review process balances the state's energy needs, orderly development of the region and inclusion of Act-250 environmental criteria. The Public Service Board (PSB) oversees a professional, fact-based review of proposed energy projects.

2. In order to meet the goals of the Statewide Comprehensive Energy Plan goal whereby 90% of all Vermont energy comes from renewable sources by 2050, permitting of energy projects need to be assured time and cost certainty.

3. The ultimate goal of the Siting Commission should be to encourage a cost-effective transition from traditional fuels to clean renewable energy and reduce the public conflict around renewable energy development. The best way to achieve these goals is to provide a very clear set of guidelines, in the form of comprehensive renewable energy ordinances that are scientifically fact-based, and clear. With this in place, potential projects can be determined early on in the project planning phase as to whether a project is "go / no-go". If the project is out of compliance with these ordinances, the public will be able to determine potential concerns.

4. The implementation of e-filing, an electronic docket system and web-based information for increased transparency and streamlining permit timelines is suggested. A clear, filing fee structure, managed by the Public Service Board (PSB), provided that all fee revenues remain with the PSB and are used to improve efficient processing of applications. (Filing fees, bill back, franchise fees, etc., are all mentioned. There must be a cap on fee structure otherwise there is too much risk for any project to be developed).

5. An increased role of RPCs to assess their regions' total energy consumption and identify proposals to reduce total energy consumption.

Renewable resource developers, knowing the siting criteria of their renewable resource should be involved in any stakeholder process to identify places of renewable deployment. Final authority of locating energy generation facilities should remain with the Public Service Board, as energy is a common good and a common need – shared and used by all Vermonters.

6. This process should be reviewed through “plan/do/check/act” – if the recommendations provided by the Siting Commission inadvertently prevent Vermont from reaching our goals (supported by 66% of Vermonters), then we need to revisit this discussion.

7. An extension of the public comment period is not necessary. This will likely only serve to extend the conflict and galvanize and polarize the various sides of the debate. There is no precedent of the public debate resulting in everyone coming together in mutual support.

8. Small-scale renewable energy projects are important for meeting our state’s clean energy goals. I support your suggestions that will make it easier and faster to build these projects in communities around the state.

9. While small projects are absolutely worthwhile, it is also essential that we move forward in developing utility-scale renewable energy projects so that Vermont can do its part to combat climate change and take responsibility for our clean energy future. I do not support regulatory hurdles that will make it more difficult to build larger renewable energy projects since they are a necessary part of our energy mix.

10. While moving towards meaningful planning is important, regional and local input into where renewable projects should be built should be considered fairly and on its merits. If we’re serious about producing renewable energy, prioritization must be given to areas that have the greatest potential for renewable energy production.

11. Climate change is the critical environmental issue of our time. In reviewing the environmental or cumulative impacts of a particular project, the project’s capacity to reduce climate emissions must be the utmost consideration.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/943>

Submitted on Monday, April 8, 2013 - 20:37 Submitted by anonymous user: [70.20.47.129] Submitted values are:

Name: Jan Ameen
Town: Westminster

Email:

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Other Energy Sources, Facilities or General Comment

3) Comment :

I am commenting on the commission's 3rd draft. I am dismayed that sections were removed from the 2nd draft that would have included environmental criteria from Act 250, a review of RECs, and consideration of the intermittency of renewables. At the VIT discussion the majority of comments suggested more stringent requirements for environmental standards and many people referred to Act 250 including myself. If our state requires projects like the Brattleboro Memorial Hospital Emergency Room expansion to go through an Act 250 process then how can the commission be silent on exempting biomass plants and wind turbines from this same land use planning requirement? One project is geared to save lives and the others are potentially harmful to lives. One has almost zero environmental impact and the others have tremendous environmental impact. It is unconscionable that you would remove this requirement from the 3rd draft.

The 3rd draft also now requires regional plans to be consistent with the CEP except that the CEP is already contradicted by new DPS statements. The CEP claims that biomass is carbon neutral. In testimony before the PSB for the NSSEP docket, DPS has testified that biomass is not carbon neutral and refutes the earlier position - codified in the CEP. Regional plans should be allowed to focus on core issues relating to renewables and should not follow a plan that is already aged and inaccurate.

The process outlined in draft 3 gives face time to some frequently voiced concerns but then limits the impact by creating caveats.

It is greatly disappointing that the commission's 3rd draft has been watered down. I hope that you will find the courage to return the sections that were eliminated. Your legacy will affect Vermont's landscape and Vermonter's health and well being for the coming years. Please stand up for what is right and not what is politically motivated.

The results of this submission may be viewed at:
<http://sitingcommission.vermont.gov/node/7/submission/944>

Submitted on Monday, April 8, 2013 - 21:19 Submitted by anonymous user: [\[50.137.115.19\]](#) Submitted values are:

Name: Charles Kletecka

Town: Waterbury

Organization: Individual

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:

- Biomass
- Hydroelectric
 - Solar
 - Wind

3) Comment :

I strongly suggest the Commission not add any additional steps to the Public Service Board process for renewable energy projects. The PSB has the unique ability to consider the broader state-wide interest in these decisions and that perspective and ability should not be watered down.

I believe that into the future as the country finally gets serious (I hope!) in addressing climate change these projects will be of immense value to the State and region. I believe we are facing an emergency and we need to build out these projects now. Let the PSB continue it's due diligence and not further complicate the current process. The effect of that would bediscouraging the building of the large capacity in renewables that we need.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/945>

Submitted on Monday, April 8, 2013 - 21:35 Submitted by anonymous user: [71.169.150.212] Submitted values are:

Name: Keith Dewey

Town: Weston

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:

- Biomass
- Coal
- Geothermal
- Hydroelectric
- Oil
- Solar
- Wind
- Natural Gas
- Nuclear
- Other Energy Sources, Facilities or General Comment

3) Comment :

I am in full agreement with all of the comments relative to the the EGSPC 3rd Draft Packaging of the 4/3/13 Recommendations submitted by Renewable Energy Vermont this week. In addition, I will be sending my own comments on Tuesday in .PDF documents to your email address SitingCommission@state.vt.us, since this Open Comment Form offers no way to attach separate text files.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/946>

Submitted on Tuesday, April 9, 2013 - 01:48 Submitted by anonymous user: [64.222.99.87] Submitted values are:

Name: jeannie humphrey

Town: Brighton

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment : I can not believe that the people in vermont want to take the beauty away from this state. I have heard these things in action, and they are very noisy. I can only imagine what it means to the wild life. I also don't buy the clean energy that it is supposed to give. What about solar energy??? I do not think we will save money, I think that someone is going to be making alot of money.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/947>

Submitted on Tuesday, April 9, 2013 - 06:53 Submitted by anonymous user: [209.134.46.222] Submitted values are:

Name: Frank Seawright

Town: Windham

Title: Member of Windham Selectboard

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment :

1. Authorize ANR to make discovery and monitoring visits on proposed sites:

There must be a blanket authorization for ANR personnel to visit proposed sites at the outset of any project and to continue site visits throughout the development process, including follow-up monitoring where assurances made and practices utilized can be evaluated. Towns may need to hire consulting experts, and these experts should also be covered.

At a recent meeting of our town leaders and Meadowsend Timberlands, the owner of a prospective industrial wind site in our town a Selectboard member ask for authorization for ANR wetland Ecologist to conduct site visits this spring and summer. The owners were reticent and the response was left at “we'll get back to you on that.” This exchange effectively illuminates an important aspect of the current relationship between developers and communities.

2. Adjust time frames for review and certification: Time frames for review and certification of environmental features on proposed energy sites must take into consideration the seasonal nature of biologic processes. Many plant species cannot be identified when not in flower. Vernal pools are usually active only during the month of May, and often require two years to review and confirm. Failure to observe the cycles of nature may result in the loss of rare or endangered species and destruction of fragile environments.

3. Elevate the status and effectiveness of town Conservation Commissions.

Regional Planning Commissions will work closely with the towns, and especially town Conservation Commissions, when evaluating potential renewable energy sites. Conservation Commissions, with proper guidance and resources, can be a valuable resource for local inventories of natural resources. Note: there is currently one Fish and Wildlife staffperson responsible for providing assistance to all town Conservation Commissions. This staffing level would need to be reviewed.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/950>

Submitted on Tuesday, April 9, 2013 - 07:01 Submitted by anonymous user: [71.169.137.5] Submitted values are:

Name: Claire Trask

Town: Londonderry

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment : I am concerned about the out cry over wind towers. There has been a great deal of public input and care taken with siting already. It reminds me of what we faced in Londonderry when the selectboard tried to hold very public hearings and dicussions re: possible wind towers on Glebe.

We wanted a completed plan from the developer that we could take to a public vote. What we got was a law suit, shouted down as liars in public meetings and numerous letters from people opposed to the idea of wind towers.

If a family was against the idea of wind, each family member sent us 2,3 and 4 letters over a few months; if a family was in favor, they sent one letter one time. A young grocery clerk was yelled at for asking a question that someone took as sounding supportive of wind towers. Someone (you I hope) needs to remove the emotional nonsense from the discussion and look at the big picture of what we need to do to keep our landscape from disappearing all together and to keep our economy moving. The mountains of Vermont have always been part of a working landscape and here is another opportunity.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/951>

Submitted on Tuesday, April 9, 2013 - 07:43 Submitted by anonymous user: [184.63.45.7] Submitted values are:

Name: Valerie Desmarais

Town: Burke

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment :
To the Siting Commission:

I appreciated the opportunity to address your work via the VT Interactive Network this evening. 04.08.13. Participating in this public process has been challenging for me due to work restrictions. It was enlightening and remarkable to observe that among the individuals who described themselves as concerned about the public good, climate change and other humanitarian issues there was a common thread of being in a position to gain financially from their stance. It was also interesting that a majority of industrial wind advocates spoke from the Williston satellite-an area that consumes the most energy, but has yet to see a project proposal of the magnitude and intrusiveness that have characterized the NEK developments.

I am writing to request that The Commission please consider the following concerns that I was unable to address in a 2 minute window:

In the interest of "Transparency" I would urge that The Commission recommend that the public be notified immediately when project applications are being discussed and submitted. Public Trust has been identified as integral to the planning process, and to ensure adequate opportunity for Public Participation, there should be little to no lag time in making the proposal for an energy facility public. It was very disheartening to learn that ANR had been meeting with merchant developers for months before there was any public mention of a proposed project in Newark, Island Pond and the UTG's. In fact, The Caledonian Record reported that the PSB indicated that there was little chance of new industrial wind development in The Kingdom (12.2011) while in reality the wind developer had already approached our government entities in Montpelier and was in discussion with key agencies appointed to protect our environment and the natural resources that belong to all Vermonters. I endorse The Commissions' treatment of 17.C in an effort to identify new areas of impact and hope that the gathering of more information on new impacts is a prerequisite to the proposal process. In woodland habitat that has been identified as critical to rare, threatened and endangered species, there should be further study on how to protect such habitat for the survival of those species that are under increased pressure due to diminishing habitat resources. Also, please consider addressing new impacts relative to adjacent conserved lands and other public access areas.

In item 20, I would ask that The Commission charge the merchant developers with providing criteria relative to cumulative impact, rather than our ANR providing the corporations with specific guidelines. The corporations have a plethora of experts who should take full responsibility for defining the developers' understanding and measurement of cumulative negative impact. By assigning the task to the developer there is a decreased chance that our own government entities will be perceived as complicit with the developer in the planning process. The citizens who are attempting to protect fragile high-elevation habitat are afforded no specific guidance from the ANR during any part of the planning or application phase of the siting process.

It is important to note that there are several years worth of scientific data relevant to the presence of Canada

Lynx, Pine Marten, Bicknell's Thrush and several amphibious creatures documented with Vermont Fish and Wildlife and the US Fish and Wildlife Service in the NEK. The existence of these RTE animals should preclude any discussion of industrial power generators being proposed for their habitat region.

In item 21, please consider adding that scientific data relative to specific site suitability be made public as well. The developers insist that the data is proprietary and confidential due to the highly competitive and enormously lucrative nature of energy development. I would ask that a third party expert be engaged to review and interpret MET tower data/ information, wind resource data and other site specific scientific data. This individual could then disseminate the information to those who have party status, or to some other body.

Finally, I submit to you that the process for layperson involvement is unduly arduous and inhospitable. I urge you to consider the average working Vermonter taking on an almost full time job defending their place - with nebulous gains against a gargantuan entity that seem to have the backing of the power of the state government - it is truly unempowering.

In closing I ask that The Commission continue their good work in providing emphasis on public participation and increased clarity in the process of energy generation siting in Vermont.

Thank you,

Valerie Desmarais
Burke, Vermont

The results of this submission may be viewed at:
<http://sitingcommission.vermont.gov/node/7/submission/952>

Submitted on Tuesday, April 9, 2013 - 11:21 Submitted by anonymous user: [209.134.46.222] Submitted values are:

Name: Nancy

Town: Windham

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
- Wind
- Other Energy Sources, Facilities or General Comment

3) Comment :

I would like to make three additions to the Siting Commission Recommendations. All three of these additions are based on my experience of the process of wind-energy siting, as it has unfolded in Windham. From the beginning of the process (and we have no way of knowing when the actual beginning was), our community has been treated sneakily and disrespectfully. None of our questions has been answered, and our concerns have been met with condescension and veiled threats. Understandably, these experiences have raised considerably the level of our fear and outrage. I understand that it is exactly this type of destructive process that the Siting Commission has addressed in its recommendations and I am grateful. These are my three additions:.

1. The Public Engagement Plan (PEP) should include a constraints map, based on criteria developed by the Public Service Department (PSD). Every project must have at the outset a constraints map, showing all areas on the proposed site where renewable energy apparatus cannot be sited. The constraints map will be produced by developers in response to PSD criteria, which will be developed with public input. Each constraints map will be evaluated for adequacy by PSD; if the map is judged an adequate response to PSD criteria, it should be shown to communities for their input as part of the PEP. No resource-testing apparatus (e.g. MET towers for wind installations) may be installed in constrained areas. Further, such a map should be considered to provide minimum protection of the natural and social environment of a proposed site: new areas in need of protection may be discovered as the siting process develops; also, towns may negotiate their own set of additional constraints. Note: The American Wind Energy Association recommends that wind developers make constraint maps at the outset of projects. (source: www.AWEA.org/sitinghandbook/downloads/chapter_3_Critical_Environmental_Issues_Analysis.pdf)

2. Develop required procedures list for commencement of development process:
When any branch of VT government has any evidence of an energy developer's activity in relation to a property, a list of initial procedures must be triggered, including but not limited to: establishing a website for informing the community and receiving community input; identifying a coordinator to maintain contact with all parties; authorizing environmental studies by all parties.

3. Retroactively cover towns that are currently targeted for development:
Towns which have already been targeted for energy installations must receive the benefits of any protections and remedies that may come about as a result of Siting Commission Recommendations, before any further incursion by developers is allowed to take place.

The results of this submission may be viewed at:
<http://sitingcommission.vermont.gov/node/7/submission/953>

Submitted on Tuesday, April 9, 2013 - 22:28 Submitted by anonymous user: [64.30.52.132] Submitted values are:

Name: Cynthia Barber

Town: Newark

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment :

The following was stated at the 4/8 ITV forum.

In the 3rd iteration of the draft recommendations, the commission says that it was not asked to look at whether the state's Comprehensive Energy Plan is do-able. But that is exactly where “siting” should start. Somebody has to look at questions such as do-able? Does the plan make sense? Can it be done? Is the technology ready? Is it economic? Practical? And, importantly, is it needed? Is more electric generation needed? If so, where is it needed?

Answer these questions, and you’ll know first whether to site more electric generation and where to site it – where it is needed. Granted, you, the commissioners, weren’t asked to look at these questions, but I urge you to make a strong recommendation that such a look must be done, most likely by the DPS, and that no further unwanted impositions should be placed on communities that don’t want it or need it for the sake of “Vermont Do-Good PR.”

In its most recent draft recommendations, the commission states that public trust is at stake. I quote, "The commission understands that to achieve the state's clean energy goals, we must have processes for in-state permitting and approvals that create public trust." Unless the questions of do-ability, economy, and need are looked at and answered, the days of trust – and hope – are gone.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/957>

Name: James Sawhill

Town: Kirby

Organization: resident

Title: Ph.D.

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment :

You are considering economic, environmental, and health issues for energy siting: You need scientists, engineers, and economists. This is not a political matter.

economic -

idiocy of wind industry from CEO of a Texas energy company writing for Wall Street Journal -

http://online.wsj.com/article/SB10001424127887323501004578386501479255158.html?mod=WSJ_hpp_section_opinion#articleTabs%3Darticle

environmental –

Let's assume there is Global Warming and the major culprit is CO2 emissions. While wind energy is clean, assuming no particulates, wind power is dirty. Paradoxically, incorporating industrial wind power to base electricity load increases CO2 emissions.

<http://www.masterresource.org/2010/06/wind-integration-and-emissions/>

Check out processing rare earth elements for wind turbine magnets on your own, but what do you care about radioactive tailing pool cancers in China and Malaysia and the Western US?

health –

Vestas wind turbines (and all the other MW ones) operate at 12 rpm, by design. That equals a noise frequency of 0.06 Hz. No child left behind can do this arithmetic, but not the wind lobby. They speak of decibels, the amplitude of sound, and not the frequency component that Wright Patterson Air Force studies have warned for decades vibrates human organs. The wave length of this sound is over 3.5 miles. There's your initial setback.

http://psc.wi.gov/apps35/ERF_view/viewdoc.aspx?doc...

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/964>

Submitted on Sunday, April 14, 2013 - 14:29 Submitted by anonymous user: [184.63.45.7] Submitted values are:

Name: Valerie Desmarais

Town: Burke

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Wind

3) Comment :

To the Siting Commission:

Attached please see excerpts from the Department of the Interior Fish and Wildlife Service wind siting recommendations. I have copied the paragraphs that are most relevant to wind facilities as they relate to birds and wildlife.

Please note that the area proposed by Eolian Energy for the Seneca Mountain Wind development is documented habitat for at least 3 threatened species; Canadian Lynx, Pine Martin and Bicknell's Thrush. Furthermore, it can easily be classified as a large contiguous forestlands, surrounded by an even larger habitat block that represents major wildlife corridors. This is the type of area that is recommended as unsuitable for wind energy generating facilities.

Thank you for your work on this extremely important issue.

Regards,

Valerie Desmarais

INTERIM GUIDELINES TO AVOID AND MINIMIZE WILDLIFE IMPACTS FROM WIND TURBINES

From the US Department of the Interior
Fish and Wildlife Service

Wind energy facilities can adversely impact wildlife, especially birds (e.g., Orloff and Flannery 1992, Leddy et al. 1999, Woodward et al. 2001, Braun et al. 2002, Hunt 2002) and bats (Keeley et al. 2001, Johnson et al. 2002, Johnson et al. 2003). As more facilities with larger turbines are built, the cumulative effects of this rapidly growing industry may initiate or contribute to the decline of some wildlife populations (Manes et al. 2002, Johnson et al. 2002, Manville 2003). The potential harm to these populations from an additional source of mortality or adverse habitat impacts makes careful evaluation of proposed facilities essential. Due to local differences in wildlife concentration and movement patterns, habitats, area topography, facility design, and weather, each proposed development site is unique and requires detailed, individual evaluation. Data on wildlife use and mortality collected at one wind energy facility are not necessarily applicable to others; each site poses its own set of possibilities for negative effects on wildlife. In addition, the wind industry is rapidly expanding into habitats and regions that have not been well studied. The Service therefore suggests a precautionary approach to site selection and development, and will employ this approach in making recommendations and assessing impacts of wind energy developments.

The guidelines contain a site evaluation process with checklists for pre-development evaluations of potential terrestrial wind energy development sites (Appendix 1). Use of this process allows comparison of one site with another with respect to the impacts that would occur to wildlife if the area were developed.

The evaluation area for a potential development site should include the "footprint" encompassing all of the turbines and associated structures planned for that proposed facility, and the adjacent wildlife habitats which may be affected by the proximity of the structures, but excluding transmission lines extending outside the footprint. All potential development sites within a geographic area should be evaluated before a site is selected

for development.

Pre-development evaluations should be conducted by a team that includes Federal and/or State agency wildlife professionals with no vested interest (e.g., monetary or personal business gain) in the sites selected.

1. Identify and evaluate reference sites, preferably within the general geographic area of the proposed facility. Reference sites are high-quality wildlife areas where wind development would result in the maximum negative impact on wildlife (i.e., sites selected to have the highest possible rank using the protocol). Reference sites are used to determine the comparative risks of developing other potential sites.
2. Evaluate potential development sites to determine risk to wildlife and rank sites against each other using the highest-ranking reference site as a standard. Although high-ranking sites are generally less desirable for wind energy development, a high rank does not necessarily preclude development of a site, nor does a low rank automatically eliminate the need to conduct predevelopment assessments of wildlife resources or post-development assessments of impacts.
 1. Avoid placing turbines in documented locations of any species of wildlife, fish, or plant protected under the Federal Endangered Species Act.
 2. Avoid locating turbines in known local bird migration pathways or in areas where birds are highly concentrated, unless mortality risk is low (e.g., birds present rarely enter the rotor-swept area). Examples of high concentration areas for birds are wetlands, State or Federal refuges, private duck clubs, staging areas, rookeries, leks, roosts, riparian areas along streams, and landfills. Avoid known daily movement flyways (e.g., between roosting and feeding areas) and areas with a high incidence of fog, mist, low cloud ceilings, and low visibility.
 3. Avoid placing turbines near known bat hibernation, breeding, and maternity/nursery colonies, in migration corridors, or in flight paths between colonies and feeding areas.
 4. Configure turbine locations to avoid areas or features of the landscape known to attract raptors (hawks, falcons, eagles, owls). For example, Golden Eagles, hawks, and falcons use cliff/rim edges extensively; setbacks from these edges may reduce mortality. Other examples include not locating turbines in a dip or pass in a ridge, or in or near prairie dog colonies.
 5. Configure turbine arrays to avoid potential avian mortality where feasible. For example, group turbines rather than spreading them widely, and orient rows of turbines parallel to known bird movements, thereby decreasing the potential for bird strikes. Implement appropriate storm water management practices that do not create attractions for birds, and maintain contiguous habitat for area-sensitive species (e.g., Sage Grouse).
 6. Avoid fragmenting large, contiguous tracts of wildlife habitat. Where practical, place turbines on lands already altered or cultivated, and away from areas of intact and healthy native habitats. If not practical, select fragmented or degraded habitats over relatively intact areas.

The results of this submission may be viewed at:

<http://sitingcommission.vermont.gov/node/7/submission/969>

Submitted on Monday, April 15, 2013 - 10:48 Submitted by anonymous user: [\[70.16.205.133\]](#) Submitted values are:

Name: Howard Shaffer

Town: Montpelier

Organization: Coalition for Energy Solutions

Title: member PE

2) Energy Sources and/or Facilities: Please check the type of energy generation you wish to comment upon:
Other Energy Sources, Facilities or General Comment

3) Comment :

Vermont Energy Generating Siting Commission c/o Department of Public Service Montpelier, Vermont

Best Practices for Siting Energy Generating Facilities

Based on my experience in Vermont and elsewhere, where siting of new facilities or continuation of existing facilities have been contested before Regulatory authorities, these principles for a “Best Practice” are suggested.

1. A quasi-judicial process, like that of the Public Service Board is needed.

It is to examine all the science and economics involved with projects.

2. The process must recognize that decision making in a governmental body is a two level process. The first level is the science, economics, and other factual bases.

The second level is the Value Judgments-good or bad, right or wrong. This is the core of political differences-the subjective, non- quantifiable decisions.

3. The Process must, in the end, make decisions on what is “Good” or “Bad” based on the Legislative guidance provided in its charter. Or in the “Public Good” or not.

4. Decisions must be based on the knowledge that every facility will have some benefits, or it would not have been proposed. Every facility will also have some effects which are judged, by someone, detrimental.

5. Ages of human experience demonstrate that living together in this world often requires that individuals and individual localities (home, village, town, county, country etc.) accept some burden for the collective greater good.

6. The more recent idea of “Not in My Backyard,” extended to everyone, results in nothing getting done anywhere.

7. It is legitimate to ask a locality, “What is your Fair Share” of the different burdens we all share? It is not fair for any locality to say “We don’t want anything, or we don’t want any more” and yet expect the burden to fall on some other place. (If a locality in Vermont was asked if they wanted to continue to get heating oil and gasoline, while technology is converting to other energy sources,

they might say they would. If they were then told that in order to do this, there needed to be an oil pipeline through their locality, or a refinery sited there, what would they say? Is it fair for them to say let someone else have the impact for us?)

8. It is not possible in Energy Generation Facility Siting-or anything else-to satisfy everyone, and even more to satisfy everyone all the time. This needs to be admitted, and stated with every decision.

9. It is reasonable and fair to explore negative impacts of facilities, and what things may be done to alleviate them. Just allowing local jurisdictions to tax facilities and then have all the responsibilities for implementing the compensatory measures may not be sufficient. (For example, owners of projects might be required to conduct Outreach and Education programs throughout the life of a facility.)

10. It is reasonable for owners of facilities to be required to keep up with the science and experience about the effects of their technology world-wide, and be pro-active in proposing needed updates and adjustments. Once approved it should not be assumed that a facility will be in the Public Good for its lifetime. It should not be the responsibility of citizens, localities, and government agencies to keep up with scientific developments and “chase down” owners to make improvements.

11. Findings by the quasi-judicial body should explicitly state the impact of their findings. If in the Public Good, which publics? In the world good (climate change), the national good (energy supply security), regional and state good (reliability and economy of shared supply infrastructure). The findings should also state the negative impacts, those affected, and the compensatory measures.

12. The quasi-judicial body should also hold Public Meetings, where citizens can directly express their concerns, without the expense of legal representation.

13. It is reasonable for the process to exclude those who disagree with national or state policy supportive of particular technologies who seek to use the process to stall or block progress to advance their political agenda.

They should be directed to the appropriate political bodies. In the event they cannot change the policies to which they object, they should still not be allowed in to the quasi-judicial process. Those without needed technical credentials should not be allowed into the quasi-judicial process in an effort to be fair and hear both sides. Both sides often reflect value judgments, which are the province of the political process. This is and should be done in the political process. At the same time the quasi-judicial process must refrain from allowing technical experts to express value judgments on impacts. The experts may believe that certain impacts are acceptable, based on experience in other localities, but making this judgment is the province of the final outcome.

End

Howard Shaffer PE VT, NH,MA



April 15, 2013

The results of this submission may be viewed at:
<http://sitingcommission.vermont.gov/node/7/submission/970>

From: Pughe, Charles

Sent: Monday, April 15, 2013 2:20 PM

Subject: Siting Commission Final Comments

I am providing the following comments as a follow up to my foray onto the Vermont Interactive Television and having sat in on a number of the meetings. I think these more accurately represent my thoughts than what I was able to communicate during the VIT meeting. I hope you find them useful.

1. There is no current danger that Vermont won't have the energy it needs or that the lights are going to go out, however the desire of the populace to reduce our energy footprint and shift our fossil fuel use to renewable energy sources will take time to achieve. Vermont has made a good start on this transition but still has a long way to go. While in Vermont the biggest source of carbon emissions is transportation and home heating planning for low carbon electricity is very important for both environmental and economic reasons. Taking responsibility for our energy use and making a meaningful shift from fossil fuel, will require new energy sources. Building electric generation creates jobs, spurs economic activity, and pays local and state taxes – benefits to Vermont only if they are built here. In addition, without continuing to bolster our in-state renewable energy generation, we will be dependent on other states for our power.
2. In order to achieve Vermont's current goals of in-state renewable energy, a goal supported by the significant majority of Vermonters, the permitting process must be made no more expensive, time consuming or complicated through the siting commissions efforts. The current permitting process for the Section 248 Certificate of Public Good, as well as the collateral permits required for most projects, provides a comprehensive and thorough review of the projects, the impacts and the benefits and ultimately awards a Certificate of Public Good when the project merits. While there are areas for improvement, however it is not a wholesale revision of how the system works. For example an opportunity to leverage technology to simplify the process of participating. This will benefit all participants.
3. In-state renewable energy projects are good for Vermont. They keep Vermont dollars in the state through the permitting, construction and operation of the projects. These local dollars, our dollars, show up in the purchase of local power, the payment of local taxes, state taxes and provide good paying jobs for those lucky enough to work on or for one of the projects. The energy is needed here in Vermont, we can choose to keep the money local - buy Vermont first - or we can push the responsibility off to other states and send our money and job opportunities with them.
4. Speaking from experience on the Kingdom Community Wind project, I believe the process from start to finish was fair, rigorous and demanding of all involved. We presented a very complete and compelling permit package and were awarded a CPG. We were not given a blank check by any stretch of the imagination to do as we wished, rather a number of complicated permits were awarded and we spent a year and half complying with those strict requirements to get the project built.
5. As you are deliberating the final recommendations for presentation to the legislature, please keep in mind that the "public outcry" to reform the process you have heard continuously during this process has been presented predominately by the same small group of individuals. This vocal minority includes those that didn't defeat the permitting process for Kingdom Community Wind, despite fully participating in it. Because they do not agree with the outcome does not change the fact that the system we have works well. Changes to the process that would make it more difficult to site renewable generation in Vermont would be inconsistent with good public policy. Those that oppose large renewable projects in Vermont are very effective in having their voices heard at PSB hearings, in the press for the general public, and in front of policy leaders. Ultimately, the

PSB makes the final decision about what is in the best interest for all Vermonters based on all the information presented to them under oath from all sides of the issue.

Please let me know if you have any questions regarding my comments.

Thanks

Charlie Pughe
Green Mountain Power



From

Sent: Tuesday, April 16, 2013 9:31 AM

Subject: Re: FW: Is a Wind Turbine a Nuisance?

Rob,

It is adverse to health to anyone, especially pregnant women and children, living within 1.25 miles from a Lowell Mountain-type wind turbine.

Willem

-----Original Message-----

Sent: Tue, Apr 16, 2013 1:17 am

Subject: FW: Is a Wind Turbine a Nuisance?

Sent to you by Gregory via Google Reader:

Is a Wind Turbine a Nuisance?

via (title unknown) by Jonathan H. Adler on 4/14/13

(Jonathan H. Adler) Wind turbines may be a promising low-carbon power source, but the communities in which they are sited do not always welcome them with open arms. Residents of the Forest hills subdivision in Washoe Valley, Nevada, were none to pleased when one of their neighbors planned to erect a wind turbine to power his home. They sued, alleging the 75-foot-tall turbine would constitute a nuisance, and won. While noting that “the aesthetics of a wind turbine alone are not grounds for finding a, nuisance,” the Nevada Supreme Court ruled that “a nuisance in fact may be found when the aesthetics are combined with other factors, such as noise, shadow flicker, and diminution in property value.” On this basis, the court upheld the lower court’s determination that the wind turbine would constitute a nuisance, and could be enjoined.

Things you can do from here:Subscribe to (title unknown) using Google Reader Get started using Google Reader to easily keep up with all your favorite sites

From: Rob Pforzheimer
Sent: Wednesday, April 17, 2013 1:11 PM

Subject: FW: The SPEED program is bad, but an RPS would be worse for rate payers.

Subject: The SPEED program is bad, but an RPS would be worse for rate payers.

In White River Junction, VT, a \$10.5 million, 2.2 MW solar facility was put up by some Boston multi-millionaires as a tax-shelter. About 15 acres of trees and other vegetation and topsoil were cleared and the area was leveled with bulldozers. The whole is surrounded by 8-ft tall fencing. It likely has Chinese panels and German inverters. Vermont may have supplied some of the supports, brackets and miscellaneous hardware. Few, if any, permanent jobs were created. The multi-millionaires will get paid 24 c/kWh under the SPEED program, currently limited to 127.5 MW of RE projects by 2017, but sure to be expanded to achieve RE goals.

<http://vermontspeed.com/speed-monthly-production/>

NOTE: The PSB will have to adjust upwards the 30 c/kWh, based on inflation or grid prices, to attract sufficient tax-shelter capital and to achieve RE goals. Current annual average NE grid prices are about 5.5 c/kWh, unchanged for about 4 years. The NE grid price is likely to increase at about the rate of inflation, because of nearby, reliable, abundant, domestic, low-cost, low-CO2-emitting natural gas.

The WRJ facility produces about 2,200 kW x 8,760 hr/yr x capacity factor 0.143 = 2,755,896 kWh/yr. In New England, there is no, or minimal, solar energy 65% of the hours of the year. Solar energy is not-dispatchable, variable, intermittent, i.e., junk energy. Each year, for 25 years, GMP will send a check for 2,755,896 kWh x \$0.24/kWh = 661,415 (it would be \$826,769 at the current \$0.30/kWh) to the Boston multi-millionaires. Each year, for 25 years, GMP will roll the excess costs (0.24 - 0.055, NE grid price) \$/kWh x 2,755,896 kWh = \$509,841 (it would be \$675,195 at the current \$0.30/kWh) into the electric bills of already-struggling households and businesses. NOTE: Not dispatchable means not available "On-Demand".

Vermont's current energy consumption is 23% from renewables. The 2011 Comprehensive Energy Plan, CEP, recommends Vermont obtains 90% of total energy (heating, cooling, transportation, energy generation, etc.) from renewables by 2050. Ignoring the dismal results of the Standard Offer SPEED program, 2.2 MW or less (at end 2012, after 2.5 years, 0.53% of Vermont's electricity consumption; average energy cost \$0.1716/kWh, 3.5 times grid prices), the CEP nevertheless recommends a Renewable Portfolio Standard, RPS, that sets a goal to obtain 75% renewable electricity within 20 years. The adverse impact on household and business electric rates would be significant. It appears, Montpelier's

CEP is an RE sector wish list not based on reality.

http://publicservice.vermont.gov/publications/energy_plan/2011_plan

NOTE: 14 states out of 29 with an RPS law are repealing, or watering down, their RPS laws, which were speedily, and without much thought, enacted in part to assuage RE feel-good fervor, and in part to being seen “as fighting global warming and climate change”.

NOTE: The world AVERAGE temperature, as measured by satellites, has been unchanged for 15 years, despite rising CO₂ in the atmosphere and a 0.3 C increase for those 15 years predicted by the UN/IPCC’s subjective, inadequate climate models.

Assume 30% of all Vermont’s annual electricity consumption, 1,800,000,000 kWh, would be from solar by 2050, which would require (653) 2.2 MW, ground-mounted facilities, at an installed cost of \$6.858 billion during the 2012 - 2050 period.

NOTE: (653) 2.2 MW systems = 478,867 free-standing houses, each with a 3 kW roof-mounted system. Vermont has about 100,000 free-standing houses and about 15% of their roofs are south-facing AND suitable for solar systems, i.e., ground-mounting will be prevalent.

In 2050, GMP would be sending two checks totaling $653 \times \$826,769 = \540 million; one for \$432 million to out-of-state multi-millionaires, if 80% were out-of-state tax shelters, and one for \$108 million to Vermont multi-millionaires. Examples of Standard Offer SPEED projects:

Ferrisburgh Solar Farm Operating, LLC, in Burlington, VT, 1000 kW, 25 years @ 30 c/kWh

Chittenden County Solar Partners, LLC, in South Burlington, VT, 2200 kW, 25 years @ 30 c/kWh

SVEP Solar Project Company, LLC, San Francisco, CA, in Southern Vermont, 2200 kW, 25 years @ 30 c/kWh

Sun Gen Sharon 1, LLC, Arundel, ME, 2200 kW, 25 years @ 30 c/kWh

Great Bay Hydro Corp, Portsmouth, NH, in West Charlestown, VT, 675 kW, 20 years @ 12.5 c/kWh

CRL Solar, LLC, Baxford, MA, in White River Junction, VT, 2200 kW, 25 years @ 24 c/kWh

GASNA 14P, LLC, San Francisco, CA, in Williamstown, VT, 2000 kW, 25 years @ 30 c/kWh

In 2050, GMP would roll $653 \times \$675,195 = \441 million into the electric bills of still-struggling households and businesses. RE projects are often promoted “as keeping money in the state”. Irrational outcomes happen when starry-eyed politicians distort market rules.

NOTE: All this energy could have been bought from Hydro-Quebec at about $1,800,000,000 \times \$0.06/\text{kWh} = \108 million grid price or inflation adjusted. Hydro energy is dispatchable (i.e., available “On-Demand”), steady, 24/7/365, much more CO₂-free than solar energy, i.e.,

high-quality energy.

The SPEED program is:

- A major boon for China (panels), Germany (inverters), and the makers of miscellaneous hardware.
- A major bane for already-struggling households and businesses, as it means decades of excessively-increasing electric rates.
- Good for solar system installers, because they are building their fortunes on subsidies, at the expense of everyone else.
- Good for multi-millionaires, because the SPEED program is a license to avoid taxes and print money; i.e., income disparity enhanced by government subsidies.

An irrational, expensive, inequitable, dysfunctional energy policy that was devised by pro-RE legislators on energy committees and savvy RE business owners/lobbyists. This policy will, slowly but surely, cripple Vermont's already-fragile, federal-funds-dependent economy. A much better policy would be energy efficiency.

<http://theenergycollective.com/willem-post/46652/reducing-energy-use-houses>

<http://theenergycollective.com/willem-post/71771/energy-efficiency-first-renewables-later>

PS.

- SPEED projects result in a net increase of renewable energy on the East Coast and in the Midwest energy mix, which is good.
- Energy travels at about the speed of light on the grid, 1,800 miles in about 0.01 second. To think of energy being "local", or a certain energy (coal, nuclear, etc.) being "imported or exported" is not valid, based on the Physics. Once energy, whatever its source, is on the grid, it is energy.
- The SPEED program (2.2 MW or less) DOES produce energy and DOES reduce CO2 emissions.

From: Rob Pforzheimer
Sent: Wednesday, April 17, 2013 7:50 PM

Subject: Parents demand protection for their children from wind turbine emissions

Date: Wed, 17 Apr 2013 23:09:04 +0000

Subject: [New post] Parents demand protection for their children from wind turbine emissions
windaction posted: "FOR IMMEDIATE RELEASE APRIL 18, 2013 Queen's Park "Premier Wynne, 550 meters is too close!" A group of determined parents will arrive at Queen's Park on Thursday morning April 18 at 11:30 to demand a meeting with Premier Kathleen Wynne to discuss the r"

Respond to this post by replying above this line

New post on **Ontario Wind Resistance**



[Parents demand protection for their children from wind turbine emissions](#)
by [windaction](#)

FOR IMMEDIATE RELEASE APRIL 18, 2013 Queen's Park "Premier Wynne, 550 meters is too close!" A group of determined parents will arrive at Queen's Park on Thursday morning April 18 at 11:30 to demand a meeting with Premier Kathleen Wynne to discuss the risks to their children from industrial wind turbines. The group is led [...]

[Read more of this post](#)

[windaction](#) | 04/17/2013 at 19:08 | Categories: [Human Rights](#), [Ontario government](#), [Protest](#), [Take Action](#) | URL: <http://wp.me/pmgPI-eiD>

[Comment](#) [See all comments](#)

Unsubscribe or change your email settings at [Manage Subscriptions](#).

Trouble clicking? Copy and paste this URL into your browser:

<http://ontario-wind-resistance.org/2013/04/17/parents-demand-protection-for-their-children-from-wind-turbine-emissions/>

Thanks for flying with  [WordPress.com](#)

AM

Holland and Derby Citizens for Responsible Energy (HDCRE)
c/o Vicky Farrand-Lewis



April 8, 2013

Vermont Energy Generation Siting Policy Commission
C/O Ann Margolis (Vermont Department of Public Service)
112 State Street
Montpelier, VT 05620

STATE OF VERMONT
DEPT. OF PUBLIC SERVICE
MONTPELIER, VT.
05620-2601
2013 APR 17 A

Re: Holland Derby Citizens For Responsible Energy (HDCRE) Comments and suggestions to the Energy Generation Siting Policy Commission (Commission), pertaining to the siting of Wind Generating Facilities (WGF) under the § 248 process.

Commission Members, Eastman, McCarren, Bodett, Johnstone and Symington.

We, the HDCRE, would like to thank you for the opportunity allowing us to provide our comments and suggestions for the record, as you determine guidance and recommendations under Executive Order No. 10-12 (10/2/12).

My name is Vicky Farrand-Lewis and I am the Coordinator/Secretary for the HDCRE. We formed as a group of local residents in response to a proposed two commercial wind turbine project known as the "Derby Line Wind Project" (DLWP) located on the U.S. Canadian border. The project was proposed and withdrawn by Encore Redevelopment and then closed by the Vermont Public Service Board (PSB) under Docket No. 7832 on June 18, 2012.

As we were granted intervener status by the PSB for the above project, we have a great deal of direct experience, that we now offer to the Commission in the form of the following comments and suggestions:

1. Developers should be required to show that they have "site control" and "financial capacity" of a proposed generating facility, prior to filing an application for a Certificate of Public Good (CPG). This is currently required for decommissioning access and funding only. Developers that only have an "Option" for the site, as compared to lease or ownership control, should not be allowed to file an application until proof of a commitment to the site and financial ability to develop it is obtained. Not having this criteria apply could potentially engage the State's resources prematurely for a project that may fail, as in the DLWP.

14. Our legal advisors have concluded, as others now believe, that § 248 is unconstitutional. Allowing an unelected appointed body (the PSB) with no legislative, or judicial oversight, to change the rules of the § 248 process as it sees fit, on behalf of the applicant only, is partly the basis of this contention. Further, as the PSB has established it operates under the Vermont Rules of Civil Procedure, this conflict becomes even more evident. As such those that stand behind an unconstitutional law should know it is not a law. It will afford no protection to those who abuse it and we would warn that public official protection's will turn into personal and civil liabilities.

Finally, in response to accusations made by Chad Farrell of Encore Redevelopment to the Commission on November 30, 2012 (see transcript pages 58-64) regarding intervenors, the public and his experience with the DLWP, we will allow the PSB record of Docket No.7832 to speak for itself by providing the following for your review:

1. HDCRE second to last Motion dated and filed June 8, 2012.
2. PSB Order Re: Closing Docket Entered June 18, 2012.
3. Final Motion of Richard H. Saudek Esq. on behalf of Intervenor Stanstead, Quebec dated and entered June 15, 2012. Please note that Richard H. Saudek of Cheney, Brock & Saudek, P.C. also represented some of the intervening surrounding Vermont Towns to the DLWP of Holland, Derby Center and the Town of Derby.
4. HDCRE Final Motion dated and entered June 15, 2012.
5. PSB Memorandum Dated June 22, 2012.

Thank you for your time and consideration to the above matters. We hope that we have been of assistance, regarding our experience, as your Commission determines guidance and recommendations to the Governor via Executive Order 10-12 (10/2/12).

Sincerely,



Vicky Farrand-Lewis
HDCRE Coordinator/Secretary

cc: HDCRE Members
Legal Advisors

Holland and Derby Citizens for Responsible Energy (HDCRE)

Date: June 8, 2012

VIA HAND DELIVERY & US MAIL

Mrs. Susan Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

RE: Docket No. 7832 - Derby Line Wind Project
Holland and Derby Citizens for Responsible Energy Response to Memorandum of June 4, 2012
RE: Petitioner's Notice of Dismissal

Dear Mrs Hudson:

In response to the above noted memorandum, HDCRE offers the following:

1) The Petitioner's application of December, 2011 was characterized by a minimal amount of information compared to that typically contained in an application for projects such as these. This was evidenced, among other things, by the comments of Mr. Cotter at the Pre-Hearing Conference, the interrogatories of the Department of Public Service, and the lack of fulfillment of the promises made to surrounding communities and citizens about the content of the application and subsequent submissions to augment it.

2) Some representations made by the Petitioner allowing the Board to waive certain criteria may have been misrepresentations such as two 2.3 MW turbines proposed for a total 2.2 MW or smaller renewable energy project under the Standard Offer Contract (with no apparent certainty to date); the initial filing requesting one C.P.G. versus the apparent ultimate filing for two C.P.G.s; and statements concerning compliance with notification requirements.

3) The Petitioner failed to notify adjoining in a timely fashion. In fact, the Petitioner presented an extremely aggressive initial schedule at the same time as not all adjoining and entities had been legally notified.

4) Through their own admission, the Petitioner has wasted the Board's time, expertise, and scarce resources. This has resulted from such actions as miscalculating the responses by a number of Towns, inciting an International controversy for a variety of reasons including lack of notification consistent with the Canadian Accommodation's Law , and appearing not to follow the advice of the Board. The Canadian controversy appears to have resulted in the necessity of reducing the scope of the project by fifty percent.

5) The municipalities adjoining the project (the Village of Derby Line, the Town of Holland, and the Town of Stanstead, P.Q.) have all voted to oppose the project. In fact, the Holland Selectboard, on June 4, 2012, voted to oppose the project knowing that it might be for only one location. It can be anticipated that similar opposition will occur, possibly with more acumen, if the project is resurrected.

6) There continue to be questions regarding: the financial capacity of the Petitioner to complete the project and fully comply with potential conditions imposed by the Board, the viability of their site control, and the true intent of the Petitioner as to whether they intend to build the project or merely sell the CPGs and/or Standard Offer Contract.

7) Concerning V.R.C.P Rule 41(a)(1)(I), the Petitioner believes that no Board order or action is necessary for dismissal. We disagree. It is our understanding that this Rule allows voluntary dismissal if no pleadings or significant effort in response to various motions have occurred. In this instance, significant effort by private individuals and elected public officials at no small expense (attorneys' fees, postage, mileage, etc.) by a number of entities including four Intervenor communities and other Intervenors has occurred. In addition, responses to a variety of issues have been made (and responses given by the Petitioner) by the Agency of Natural Resources, Department of Public Service, and the HDCRE itself. Clearly, the request for dismissal without prejudice by the Petitioner is not applicable in this case as the request is, at best, not consistent with the spirit and intent of the law given the actions of all involved. It is further our understanding that dismissal without prejudice may occur only in instances in which the court has no jurisdiction over the matter. In this instance, the Public Service Board clearly has such jurisdiction and authority to dismiss either with or without prejudice.

In conclusion, the request for dismissal is an attempt to remedy a defective application and mistakes made by the Petitioner by requesting to return to Docket No.7832 at a later date and to continue as if no mistakes had been made. HDCRE believes that all of the problems with this application have been created by the Petitioner. If the Docket as it exists were to be reopened, it would merely compound the problems already inherent therein and result in a protracted process to the detriment of the citizenry, more paramount municipal functions, and State time and resources. A dismissal without prejudice raises the distinct possibility (whether perceived or legally permissible) that this project can return without being the subject of appropriate scrutiny afforded by potential imminent decisions by the Vermont Legislature and local Regional Planning Commission (NVDA). Both entities are considering moratoriums on turbine projects until rigorous analysis and recommendations are prepared. While such a possibility might result in a future Board decision inconsistent with the intent of the Legislature, to the ordinary Vermonter, it clearly would appear at best unfair, and at worst nefarious.

Based upon the facts, we do not believe that any due deference should be afforded this Petitioner and request that Docket No 7832 be dismissed with prejudice..

Thank you for the opportunity to comment.

Sincerely,



Michael. L. "Mitch" Wonson
President, HDCRE

cc: Service List

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7832

Petition of Encore Derby Line Wind, LLC, for)
certificates of public good, pursuant to 30)
V.S.A. Section 248, authorizing: (1) the)
construction of a wind turbine and electric)
generation facility at the Grand View Farm)
located in Derby Line, Vermont; and (2) the)
construction and installation of a separate wind)
turbine and electric generation facility at)
Smugglers Hill Farm located in Derby Line,)
Vermont, together to be known as the "Derby)
Line Wind Project")
)

Order entered:

6/18/2012

ORDER RE: CLOSING DOCKET

I. INTRODUCTION

On December 9, 2011, Encore Derby Line Wind, LLC ("Encore") filed with the Public Service Board ("Board") its petition seeking two individual certificates of public good authorizing it to construct and operate two separate wind turbine projects on two separate parcels of land, of up to 2.2 MW each. A prehearing conference in this Docket was held on February 13, 2012, and a site visit and public hearing were held on March 26, 2012.

On May 24, 2012, Encore filed a Notice of Voluntary Dismissal ("Dismissal Notice") of its petition pursuant to V.R.C.P. 41(a)(1)(i) notifying the Board that it was withdrawing the Smugglers Hill Farm project from the Standard Offer program, and that it would focus its efforts on the Grand View Farm project. Encore stated that it would attempt to address questions and concerns from members of affected communities prior to filing a new petition for the Grand View Farm project.¹

1. Letter from Leslie A. Cadwell, Esq., to Susan M. Hudson, Clerk of the Board, dated May 24, 2012, at 1-2.

On June 7, 2012, the Department of Public Service filed comments supporting the voluntary dismissal of Encore's petition.²

On June 8, 2012, comments were filed on the Dismissal Notice by Holland and Derby Citizens for Responsible Energy ("HDCRE"), John and Sherry Wagner, and the Town of Holland. HDCRE's comments state that voluntary dismissal is not available to Encore because the parties have engaged in significant efforts in response to Encore's petition, and that the spirit of the rule would be violated if Encore were allowed to dismiss the action without prejudice simply by filing the Dismissal Notice. HDCRE further contends that significant shortcomings and mistakes existed in Encore's initial filing and that additional mistakes have been made since that time. HDCRE views the Dismissal Notice as an attempt by Encore to remedy a defective application by allowing Encore to reopen the Docket as it exists at a later date which, HDCRE contends, would simply compound the problems that currently exist to the detriment of other parties. HDCRE also asserts that dismissal without prejudice is only available where a court has no jurisdiction over a case. Because the Board does have jurisdiction over Encore's petition, HDCRE states that the Board has discretion to dismiss the petition with prejudice, which HDCRE requests.³

John and Sherry Wagner express concerns over what they believe were serious misrepresentations by Encore throughout the proceeding. The Wagners contend that dismissal of the proceeding without prejudice cannot be achieved because they, along with other parties, have already made filings in the Docket and expended significant time researching the proposed projects, attending town select board meetings and meetings with other interested parties. Because of this, the Wagners believe that the Docket must be dismissed with prejudice.⁴

In its comments, the Town of Holland notes that its select board has voted to oppose both of the proposed projects.⁵

2. DPS Comments.

3. HDCRE Comments at 2.

4. Wagner Comments.

5. Holland Comments.

II. DISCUSSION

Voluntary dismissal of an action by the plaintiff is only available under V.R.C.P. 41(a)(1) before an adverse party serves an answer or a motion for summary judgment (or by a stipulation signed by all the parties). Since the Board's Rules generally do not envision an answer, and because proceedings had already commenced in this docket, including a prehearing conference, it is not clear that voluntary dismissal under V.R.C.P. 41(a)(1) is available.⁶ Consequently, we are treating the notice as a motion for dismissal pursuant to V.R.C.P. 41(a)(2).

V.R.C.P. 41(a)(2) permits dismissal of an action at the plaintiff's instance by an order of the court upon such terms and conditions as deemed proper by the court. Unless otherwise specified in the dismissal order, the dismissal is without prejudice.⁷

We are granting the motion and are dismissing this proceeding without prejudice. Encore's Dismissal Notice is an attempt to alleviate some of the controversy associated with the Smugglers Hill Farm project, the closer of the two projects to the border with Canada. Encore also wishes to take some additional time to attempt to respond to concerns and questions of members of the surrounding communities before submitting a petition for just the Grand View Farm project. We conclude this is a reasonable request.

We reject the requests of HDCRE and the Wagners that the dismissal be made with prejudice. V.R.C.P. 41(a)(2) expressly states that dismissal at the plaintiff's instance is without prejudice unless otherwise ordered.⁸ Both HDCRE and the Wagners have misread V.R.C.P. 41(a). HDCRE believes that voluntary dismissal without prejudice is available only where the court lacks jurisdiction over the claim, and the Wagners believe that dismissal without prejudice is only available if no responsive pleadings have been filed. These views are incorrect. Under V.R.C.P. 42(a)(2) dismissal without prejudice may be ordered by a court of competent jurisdiction after responsive pleadings are filed. Both HDCRE and the Wagners list a number of what they see as shortcomings and misrepresentations by Encore during this proceeding. However, neither HDCRE nor the Wagners explain why these should require dismissal with

6. *See*, for example, Docket 7397 (Order of 11/13/08); Docket 7419 (Order of 5/21/09).

7. V.R.C.P. 41(a)(2).

8. V.R.C.P. 41(a)(2).

prejudice. While we understand the desire of the intervenors to see both of the proposed projects halted at this juncture, there is no legal basis for dismissing the proceeding with prejudice. We do stress, however, that Encore will not be permitted to simply reopen Docket 7832 and continue from the point at which it filed its Dismissal Notice. We fully expect Encore, if it does decide to continue its efforts with respect to the Grand View Farm project, to file a new petition with supporting testimony and exhibits addressing each applicable Section 248 criterion, and prior to such a filing, to serve required notices on all entities and persons entitled to such notice under Section 248 and PSB Rule 5.400.

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The motion for dismissal is granted without prejudice.
2. This docket shall be closed.

Dated at Montpelier, Vermont, this 18th day of June, 2012.

s/James Volz)

) PUBLIC SERVICE

s/David C. Coen)

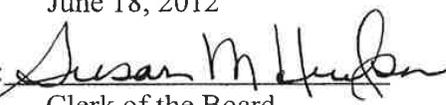
) BOARD

s/John D. Burke)

) OF VERMONT

A TRUE COPY
OFFICE OF THE CLERK

FILED: June 18, 2012

ATTEST: 
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us) Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.

LAW OFFICES

CHENEY, BROCK & SAUDEK, P.C.

KIMBERLY B. CHENEY
RICHARD LINTON BROCK
RICHARD H. SAUDEK
DAVID L. GRAYCK

HEATHER N. JARVIS
THOMAS DAWSON BROCK
CHRISTOPHER J. SMART, COUNSEL
JAMES S. BROCK 1913 - 2000

June 15, 2012

HAND DELIVERED

Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street - Drawer 20
Montpelier, VT 05602-2701

**Re: Comments of the Town of Stanstead on Request of
Encore Derby Line Wind, LLC to Extend
Commissioning Milestone**

Dear Sue:

The Town of Stanstead submits that the Board should not grant the request of Encore Derby Line Wind, LLC to extend its milestone commissioning date.

According to its request, Encore Redevelopment acquired development rights to the project February 2012, after having effectively taken control in mid-2011. By this time, Encore's predecessors in interest had sat on their rights for a year and a half. Encore argues that it went to work on the permit process soon after it took control of the project, but it turned out to be too late to receive the necessary permits (including a CPG after inevitable appeals) to assure that the plant would be built and running by mid-January 2013.

The problem with Encore's position is that it should have foreseen that it almost certainly would take more than a year to get through the regulatory and appeal process. Even if the Board had scheduled its prehearing conference within a month of Encore's filing, the likelihood of having discovery, hearings and a decision in less than about eight months was slim and, as Encore remarks in its request, "appeals of [the Board's] decisions in wind energy cases by opponents is a virtual certainty." Even an expedited appeal would last beyond January 15, 2013.

In other words, Encore made a poor bet when it took charge of the project. Surely, if it had bought the project today – seven months before the milestone date, it couldn't seriously argue that it was without fault. Given the regulatory hurdles that it had to clear and the fact that resistance to wind machines was growing to a fever pitch, the fact that it started work on the project a year ago was still a big gamble.

Further, as a matter of public policy it would be inappropriate to allow one developer to sit on its rights and then sell to a new developer, thereby giving the new developer the argument that it wasn't his fault and therefore the time should be extended. In order to be fair to the many developers who have shown an interest in building SPEED plants, a buyer shouldn't be allowed to come in late and have the clock start ticking again.

Sincerely yours,

Town of Stanstead, P.Q.

By 

Richard H. Saudek
Its Attorney

cc.: Service List

PSB Docket No. 7832 - SERVICE LIST

Parties:

John Beling, Esq., Director for Public Advocacy
Aaron Kisicki, Esq.
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620-2601

Leslie A. Cadwell, Esq. (For Encore Derby Line Wind, LLC)
Matthew S. Stern, Esq.
Gravel & Shea PC
76 St. Paul Street - P.O. Box 369
Burlington, VT 05402-03 69

Judith L. Dillon, Esq.
Vermont Agency of Natural Resources
103 South Main Street, 3rd Floor Center Building
Waterbury, Vermont 0567 1-0301

Ronald N. Roy, Trustee
Village of Derby Line Board of Trustees
PO Box 209
Derby Line, VT 05830

Richard H. Saudek, Esq. (For Town of Derby, Village of Derby Center,
Cheney, Brock & Saudek, P.C. Town of Holland, & Town of Stanstead, P.Q.)
159 State Street
Montpelier, VT 05602

Mary Jenne
149 Pelow Hill
PO Box 933
Derby Line, VT 05830

Michael L. Wonson (Copies of all filings must be sent to Vicky Farrand-Lewis
Holland and Derby Citizens 391 Whittier Road, Derby Line, VT 05803
for Responsible Energy [e-mail: vfarrandlewis@yahoo.com](mailto:vfarrandlewis@yahoo.com))
391 Whittier Road
Derby Line, VT 05830

John and Sherry Wagner
25 Tree Farm Road
Holland, VT 05830

Jeanne Dickinson
PO Box 377
Derby, VT 05829

**Terry & Lynda Hartley
2050 Lagueux Road
Stanstead, Quebec, J0B 3E1

(For Group Intervenors)
(And on behalf of themselves)

*Julie Fauteux & Stephane Grenier
3625 Lagueux Road
Stanstead, Quebec J0B 3E1

*Suzanne & Benoit Grenier
3605 Lagueux Road
Stanstead, Quebec J0B 3E1

*Bernadette Frechette & Luc Grenier
2750 Lagueux Road
Stanstead, Quebec J0B 3E1

*Nathalie Houde & Louis Grenier
2670 Lagueux Road
Stanstead, Quebec J0B 3E1

*Edith Lindblom-Warthin
2005 Herrick Road
Derby, VT 05829

*Brian Bidwell
1052 Goodall Road
Holland, VT 05830

*Motion to Intervene pending.

Interested Persons:

John Cotter, Esq., Hearing Officer
Ed McNamara, Esq., David Watts, PSB

**Holland and Derby Citizens for Responsible Energy (HDCRE)
c /o Vicky Farrand- Lewis**

Date: June 15, 2012

VIA HAND DELIVERY & US MAIL

Mrs. Susan Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

RE: Holland and Derby Citizens for Responsible Energy response to Memorandum of June 6, 2012 RE: Encore Derby Line LLC Request for Milestone Extension

Dear Mrs Hudson:

In response to this memorandum and the letter from Gravel & Shea of May 24, 2012 (Encore letter) requesting a Milestone Extension for Encore Derby Line Wind, LLC (Encore), HDCRE offers the following:

1) While we realize that this response is not technically part of Docket No. 7832 (but admittedly do not understand the legal reasons as the Public Service Board ((PSB)) has not ruled on the Motion To Dismiss), the events surrounding that application for a Certificate of Public Good (the application) are inextricably related to this request, as demonstrated by the Encore letter. As such, we will discuss them only in that context.

2) It is our understanding that Milestone Extensions shall be granted only in instances where the circumstances resulting in noncompliance with the parameters concerning duration of a contract are beyond the control of the entity to whom it was assigned.

3) We understand that Standard Offer contracts require completion within three years. As such, Encore should have been fully aware of the time constraints and legal ramifications of such a contract upon assuming control of the project. The fact that Encore did not fulfill the terms of the contract in a timely fashion is not the fault of Blue Wave Capital wasting one half of the allowable time period (as suggested initially in the Encore letter), but rather Encore's miscalculations regarding the time necessary to complete the project. It is logical to assume that Encore took over the project knowing the time constraints and felt it could successfully proceed consistent with the required schedule (the critical path timeline attachment in the Encore letter presenting a twenty-five month schedule notwithstanding).

4) Encore then seems to assign blame to the PSB for a delay in scheduling the prehearing conference. While we may not understand the typical timing of PSB actions, any developer should realize that a submission approximately two weeks before the Christmas holidays is unlikely to be processed as quickly as a submission at another time. Further, a knowledgeable developer must include some measure of potential bureaucratic delay in any viable development timeline, particularly when submitting an application so lacking in the basic information

necessary for a comprehensive review and ultimate approval. As noted in PSB Scheduling Order of March 2, 2012: “ ... Encore would have been better served had it filed its petition many months before it did.”

5) Encore then proceeds to assign blame to Mother Nature (the same entity they laud for providing a viable site for their project). This tactic is disingenuous at best, particularly when the potential for inclement weather is understandably high at this location in March.

6) Despite representations to the contrary, on at least two occasions the Petitioner failed to properly notify adjoining communities and property owners pursuant to legal requirements. Encore presented an extremely aggressive schedule at the prehearing conference at the same time they should have been cognizant of the fact that all legal notification had not been made. The requisite Canadian notification was a subject of discussion at this time and, after a delay, was ultimately required. As noted in PSB Memorandum of May 15, 2012 from Hearing Officer John J. Cotter, Esq., Re: Encore request to change order: “Encore chose not to provide notice to Stanstead ... Encore did not fully comply with the requirements of PSB Rule 5.403(B)(1)...”. While a reasonably aggressive schedule was still in effect and Encore did not feel the need to request dismissal under it, in April it was ascertained that all adjoiners in the United States had not been properly notified. This failure was referenced in the PSB Order RE: Motion to Amend Schedule of May 15, 2012 : “ The need to provide notice to these adjoining landowners at this stage of the proceeding was due to Encore’s failure...”. This omission created delayed requests for intervention resulting initially in a suspended schedule and ultimately in a revised schedule for the project. It was only at this time that Encore finally determined the schedule could not result in successful conclusion of the project within the context of their contractual obligations and filed the Motion to Dismiss and the Milestone Extension request.

7) Encore suggests that investing “ hundreds of thousands of dollars” somehow gives credence to their request. We do not see how this is germane to the issue at hand. Various intervenors have invested significant expense and time (some of which has been billed as attorney’s fees and a considerable amount donated pro bono). Further, we do not doubt considerable State resources have been expended. A competent developer should be aware of the risk versus reward of a venture such as this, prior to embarking upon it.

In summary, Encore believes that all delays were the fault of other entities, while assuming no culpability of their own. The delays in this project were entirely the result of Encore by: 1) failing to either understand or comply with the time constraints of the Standard Offer contract (by assuming they could proceed on an aggressive schedule which did not account for mis-steps or potential intervention), 2) not complying with standard Board requirements (by failing to notify adjoiners despite allegations that such had been done on a number of occasions), 3) filing a defective application (such as requesting two 2.3 MW turbines for a 2.2 MW project and providing insufficient information which raised significant issues resulting in multiple interventions), and 4) failing to account within the project time line for the fact that, in their own words: “Wind cases attract more controversy than other generation technologies...”. The Standard Offer contract is valid for three years. The holders of the contract under consideration and their assignees failed to fulfill the terms of that contract. Despite protestations to the contrary, this failure was clearly a result of their own actions.

Therefore, based upon the facts, no extension is warranted, and HDCRE respectfully asks that the Request for Milestone Extension be denied. The extension request is an attempt by Encore to ignore their own errors and continue the project as if it were a new Standard Offer contract, potentially avoiding new Legislative initiatives. If the project were to continue, based upon the record of this developer all of us will likely be subject to the same lack of information, misinformation, and dissimulation which so plagued the initial proposal in our communities.

We appreciate the opportunity to comment and are available for further input on this issue as the process proceeds.

Sincerely,

A handwritten signature in black ink, appearing to read "Mitch Wonson". The signature is written in a cursive, flowing style.

Michael L. "Mitch" Wonson
President, HDCRE

cc: Service List
John Spencer, SPEED Facilitator

112 State Street
4th Floor
Montpelier, VT 05620-2701
TEL: 802-828-2358



TTY/TDD (VT): 800-253-0191
FAX: 802-828-3351
E-mail: psb.clerk@state.vt.us
Internet: <http://www.state.vt.us/psb>

State of Vermont
Public Service Board

MEMORANDUM

To: SPEED Facilitator

Cc: Docket No. 7832 Service List

From: Susan M. Hudson, Clerk of the Board *sh*

Re: Extension of Commissioning Milestone

Date: June 22, 2012

Encore Derby Wind, LLC ("Encore") filed a petition pursuant to 30 V.S.A. § 248 to construct two wind turbines in Derby Line, Vermont; Encore's Section 248 petition is being addressed in Docket No. 7832. Encore also holds two separate contracts, one for each proposed turbine, with the Vermont SPEED Facilitator through the standard-offer program created pursuant to 30 V.S.A. Ch. 89. Issues related to the standard-offer program are separate and apart from the Section 248 process and Docket No. 7832.¹

On May 24, 2012, Encore filed a letter with the Public Service Board ("Board") requesting a waiver of the commissioning milestone in its standard-offer contract for its Grand View Farm wind generation project, one of the two proposed turbines that are the subject of Docket No. 7832. Encore states that the original standard-offer contract was executed by Bryan and Susan Davis on January 15, 2010; the contract was assigned to Blue Wave Capital in early 2010, and assigned once again to Encore in February 2012.² Encore requests "a commissioning milestone extension that provides sufficient time to complete all appeals in the event that the Board" issues a certificate of public good pursuant to 30 V.S.A. § 248. Encore asserts that "a reasonable commissioning deadline under the circumstances is July 15, 2015."

Encore contends that:

-
1. The Docket No. 7832 service list was used solely to request comments from potentially interested persons.
 2. Encore represents that it "effectively took control over the project in late June 2011 to take advantage of efficiencies in environmental review, engineering, and permitting for two nearby wind energy projects each consisting of a single 2.2 MW maximum capacity turbine."

good cause exists to extend the commissioning milestone because construction is not possible before receiving a Certificate of Public Good . . . and there is no likelihood that the Board can reasonably deliberate on the merits of the project in time to allow Encore to complete construction this year.

Encore further states that extending the commissioning milestone would be consistent with the legislative intent of promoting technological diversity in the standard-offer program and that an extension for the project "also acknowledges that different technologies have different development and permitting timelines."

On June 5, 2012, the Department of Public Service ("Department") filed a letter supporting a one-year extension of the commissioning milestone. The Department states that the project will increase diversity in the standard-offer program, promote community-scale renewable energy projects, and promote the goals of the Comprehensive Energy Plan. The Department further states that, since taking control of the project, Encore has been pursuing the project aggressively. Finally, the Department recommends that the extension be limited to one year, and, if the Board issues a CPG that is subsequently appealed, then Encore could request a further extension at that time.

On June 13, 2012, John and Sherry Wagner filed a letter objecting to Encore's request. The Wagners assert that any delays in the permitting process are due to Encore's failure to properly notify adjoining property owners, both within the U.S. and within Quebec.

On June 14, 2012, Jeanne Dickinson filed a letter asserting that the delays in the Section 248 proceeding are due to Encore's failure to provide adequate notice to abutting landowners. Ms. Dickinson further addresses whether the proposed project will promote the general good.

On June 14, 2012, Lagueux Road Committee ("LRC") filed a letter objecting to Encore's request. The LRC contends that the delays in the permitting process are due to the fact that Encore did not provide notice of the proposed project to adjoining landowners as required.

On June 15, 2012, the Town of Stanstead ("Stanstead") filed a letter objecting to Encore's request. Stanstead contends that an extension of the milestone is not appropriate because "Encore's predecessors in interest had sat on their rights for a year and half." Stanstead argues that Encore should have foreseen that it would likely take more than a year to get through the permit and appeals process. Stanstead further states that:

as a matter of public policy it would be inappropriate to allow one developer to sit on its rights and then sell to a new developer, thereby giving the new developer the argument that it wasn't his fault and therefore the time should be extended. In order to be fair to the many developers who have shown an

interest in building SPEED plants, a buyer shouldn't be allowed to come in late and have the clock start ticking again.

The purpose of the commissioning milestone is to ensure that the standard-offer program meets that statutory goal of "rapid deployment." The milestones were established at the inception of the standard-offer program, in 2009, and at that time no objection was raised to including a three-year commissioning milestone in the standard-offer contract.³ In late 2009 the Board issued an order denying a request by a hydroelectric developer to automatically extend milestones for hydroelectric facilities subject to Federal Energy Regulatory Commission ("FERC") jurisdiction. The Board determined that it was appropriate to allow such plant owners to request extensions to the commissioning milestone provided that the owner demonstrate that it has "made all reasonable efforts to obtain FERC approval as quickly as possible."⁴

On May 18, 2012, Act 170 became effective. The Act includes the following specific language regarding the grant of extensions to a commissioning milestone:

At the request of a plant owner, the board may extend a period described in subdivision (1) of this subsection (j) [creating commissioning milestones for specific categories of resources] if it finds that the plant owner has proceeded diligently and in good faith and that commissioning of the plant has been delayed because of litigation or appeal or because of the need to obtain an approval the timing of which is outside the board's control.

30 V.S.A. § 8005a(j)(1)(B).

There is some dispute regarding whether Encore has proceeded diligently and in good faith in the permitting process. Encore contends that "[u]nanticipated scheduling delays early in the § 248 proceeding" made a January 2013 commissioning date impossible. Several commenters state that Encore's failure to provide adequate notice to adjoining landowners created delay in the Section 248 process.

While Encore submitted a Section 248 petition even before it had been assigned the standard-offer contract, the permitting delays were largely a result of Encore's failure to provide adequate notice to adjoining landowners. Even if the Section 248 process had not been delayed by this failure, the schedule for the proceeding was extremely aggressive and it is unclear whether it would have needed to be expanded for some other reason.

Notwithstanding the question of whether Encore has made reasonable efforts to obtain Board approval, Encore knowingly took ownership, in February 2012, of a standard-offer contract that contained a requirement that the project be commissioned by January 15,

3. See, Docket 7533, Order of 9/30/09 at 28-29.

4. Docket 7533, Order of 10/28/09.

2013. In doing so, Encore took a risk that it could obtain approval and construct a wind generation facility within one year. The decision to take that risk was within Encore's control. If the Board were to evaluate requests for milestone extensions based solely upon the actions taken once a particular entity was assigned a standard-offer contract, the milestone in the contract would be essentially meaningless and would open the door to gaming the milestones. For example, if a project with a standard-offer contract was unable to meet a milestone contained in the contract it should not be able to transfer the contract to a new entity and therefore, in essence, restart the milestone deadline. Such a possibility runs counter to the purpose of the milestones, which are to require rapid deployment of standard-offer projects by requiring legitimate projects to meet certain steps that will lead to commissioning within a reasonable time period.⁵

With respect to the issue of technological diversity in the standard-offer program, Encore and the Department are correct that technological diversity is an important component; however, the desire for technological diversity should not override the need for meaningful program requirements.

For the reasons set forth above, the Board has concluded that the commissioning milestone in Encore's standard-offer contract will not be extended.

5. We note that the most recent revision to the standard-offer contract requires a plant owner to file a petition pursuant to Section 248 within eighteen months of executing the standard-offer contract. This milestone was not included in the contract that Encore has had assigned to it.



Vermont Electricity at a Glance: Vermont utilities' electricity generation sources, contracts & rates March 26, 2013

"Vermont Electricity at a Glance," the latest publication by the Vermont Energy Partnership (VTEP), depicts Vermont's electricity portfolio, including Vermont utilities' rates, amount of power supplied to Vermont in megawatt/hours, type of power generation, and (in most cases) the specific power generators and/or contracts.

Like several other publications, "Vermont Electricity at a Glance" identifies the state's utilities and how much and what kind of power they sell to their customers. The VTEP publication, however, also lists most of the specific generators and/or contracts for the actual sources of power consumed by Vermonters. The data provided are the most recent available, ranging from end-of-year 2011 to present day.

"Energy education has been a core mission of the Partnership since the beginning," VTEP President Brad Ferland said. "We began seven years ago in response to a need for good, solid facts about Vermont's energy portfolio. We hope that all policy makers, non-governmental organizations, the media, and indeed all interested Vermonters will find 'Vermont Electricity at a Glance' a useful resource."

The core of "Vermont Electricity at a Glance" is the reference spreadsheet (see below). A quick look reveals several energy facts of interest:

- Slightly more than half of Vermont's six million megawatt-hour portfolio is derived from sources considered "renewable" by the State of Vermont: hydro, wind, solar, methane, and wood biomass.
- Vermont's three largest utilities use about one million more MW/H of "system power" now than in 2011 (before the March 2012 expiration of Vermont's utilities' contract with Vermont Yankee which provided about one-third of the state's power). System power is the term for electricity bought from the New England transmission grid, and is comprised mostly of fossil fuel power (especially natural gas), as well as some nuclear, hydro and renewable power. Green Mountain Power, Burlington Electric Dept., and Vermont Electric Coop use 1.8 million megawatt hours of "system power." In 2011 the same three utilities used 847,000 Mw/h of system power, according to the "Utility Facts" study released in February, 2013 by the Vermont Department of Public Service.
- Over the 12 months from December 2011 to December 2012, Vermont's electricity prices rose 5.1 percent, according to the EIA. During the same time period, rates in New York and every other New England state (except Rhode Island) decreased.

Due to the ever-changing nature of Vermont's electricity portfolio, VTEP plans to provide Vermonters with annual updates to this profile. In particular, VTEP hopes to offer expanded, specific detail regarding the generating sources of the state's many municipal utilities, which tend to rely on local hydro generation and contracts with large hydro and renewable generators.

"Net-metered" electricity is not included. At present net metering is regarded as a form of electricity efficiency, because net-metered customers are generally "paid" for their power by reductions in their monthly power bills. The effects of net metering, "smart grid" technology, energy efficiency and other initiatives will be discussed in VTEP's upcoming study of Vermont's effort to reach 90% total renewable power by 2050, which is scheduled for publication sometime this spring.





A partnership to benefit the entire state of Vermont

Total Statewide Generation (MWh)	
Washington Electric Co-op	76,500
Vermont Electric Coop	457,351
Green Mountain Power	4,562,682
Burlington Electric	363,204
Municipal/Other	562,000
TOTAL	6,021,737

State Retail Electricity Price			
State	Year		% Change
	2011	2012	
Connecticut	\$0.16	\$0.15	-6%
Massachusetts	\$0.14	\$0.14	0%
Maine	\$0.12	\$0.12	-1%
New Hampshire	\$0.15	\$0.14	-3%
New York	\$0.15	\$0.15	0%
Rhode Island	\$0.13	\$0.14	5%
Vermont	\$0.14	\$0.15	5%

Source: [EIA Monthly Report](#)



A partnership to benefit the entire state of Vermont

VermontEnergyPartnership
Working for Reliable Affordable Clean Energy for Vermont

Burlington Electric Department										
Mw/H	Generator	Mw/H	Fuel Type	Renewable	System Power	Other	Total Rate (2011)	Residential Rate (2011)	Commercial Rate (2011)	Industrial Rate (2011)
363,204							\$0.14	\$0.16	\$0.14	\$0.11
	McNeil	116,225	biomass	116,225						
	NYPA	15,254	hydro	15,254						
	GMC Wind (2013-14)	0	wind	0						
	VEPPI hydro	21,792	hydro	21,792						
	BED Turbine	500	oil/gas			500				
	SPEED	1,000	solar	1,000						
	Sheffield Wind	10,800	wind	10,800						
	Hydro Quebec (2015 30,000)	0	hydro							
	ISO-Bilateral System Power contracts	196,130	system power		196,130					

Source: 2012 BED Integrated Resource Plan; 2011 Energy By Source (Fig. 7:1, 2012 IRP)

Washington Electric Cooperative										
Mw/H	Generator	Mw/H	Fuel Type	Renewable	System Power	Other	Total Rate 2011 - kw/h	Residential Rate (2011)	Commercial Rate (2011)	Industrial Rate (2011)
76,500							\$0.19	\$0.19	\$0.18	\$0.13
	VEPPI (hydro & Ryegate biomass)	2750	hydro, biomass	2750						
	Wrightsville dam	2800	hydro	2800						
	HQVJO	16900	hydro	16900						
	Coventry	49000	landfill methane	49000						
	NYPA	9780	hydro	9780						
	Sheffield	8100	wind	8100						
	GMP System Rate W	530				530				

Source: WEC 2013 Resource Report - Pg. 8, "2012 Sources of Power"



A partnership to benefit the entire state of Vermont



Vermont Electric Cooperative										
Mw/H	Generator	Mw/H	Fuel Type	Renewable	System Power	Other	Total Rate 2011 - kw/h	Residential Rate (2011)	Commercial Rate (2011)	Industrial Rate (2011)
457,351							\$0.16	\$0.19	\$0.16	\$0.10
	Big Hydro - HQ,	253,473	hydro	253,473						
	Small hydro - purchases from VEPI	13083	hydro	13083						
	Farm methane/solar/small wind - standard offer	5740	methane	5740						
	Nuclear (VY, expired 2012)									
	Wind - First Wind LLC, Sheffield	57003	wind	57003						
	Natural Gas - system power contracts	115086	natural gas		115086					
	Wood (share of Ryegate biomass)	12966	biomass	12966						

Source: VEC Energy Portfolio

Municipal/Other						
Mw/H	Town	Mw/H	2011 Total Rate (kw/h)	Residential Rate (2011)	Commercial Rate (2011)	Industrial Rate (2011)
562,000						
	Enosburg	26,000	\$0.16	\$0.16	\$0.16	\$0.15
	Swanton	53,000	\$0.12	\$0.11	\$0.13	N/A
	Hardwick	32,000	\$0.18	\$0.18	\$0.19	\$0.17
	Ludlow	46,000	\$0.16	\$0.14	\$0.16	\$0.19
	Lyndonville	68,000	\$0.15	\$0.15	\$0.17	\$0.15
	Morrisville	45,000	\$0.16	\$0.16	\$0.16	N/A
	Northfield	29,000	\$0.14	\$0.14	\$0.15	\$0.13
	Stowe	74,000	\$0.15	\$0.18	\$0.15	\$0.11
	Barton	14,000	\$0.17	\$0.17	\$0.18	N/A
	Hyde Park	11,000	\$0.18	\$0.18	\$0.20	N/A
	Jacksonville	5,000	\$0.17	\$0.17	\$0.17	\$0.17
	Johnson	13,000	\$0.18	\$0.17	\$0.20	\$0.17
	Orleans	13,000	\$0.14	\$0.13	\$0.14	\$0.15
	Readsboro	1,000	\$0.17	\$0.17	\$0.20	\$0.17
	VMPD OMYA	132,000	\$0.09	\$0.10	\$0.11	\$0.09

Source: PSD Utility Facts 2013



A partnership to benefit the entire state of Vermont



Green Mountain Power										
Mw/H	Generator	Mw/H	Fuel Type	Renewable	System Power	Other	Total Rate (current)	Residential Rate (current)	Commercial Rate (current)	Industrial Rate (current)
4,562,682							\$0.14	\$0.17	\$0.14	\$0.10
	HQ/VJO- Existing	1,487,921	hydro	1,487,921						
	HQ PPA NEW	41,790	hydro	41,790						
	GMP Hydro	410,753	hydro	410,753						
	VEPPI Hydro	145,414	hydro	145,414						
	JP Morgan System	317,305	system power		317,305					
	Morgan Stanley System	4,416	system power		4,416					
	Nextera System	219,025	system power		219,025					
	Macquarie (20 MW off-peak)	93,600	system power		93,600					
	BP Energy System	45,080	system power		45,080					
	Constellation System	502,490	system power		502,490					
	ISO-NE	310,431	system power		310,431					
	Millstone Nuclear Plant	166,265	nuclear			166,265				
	Nextera Nuclear PPA	131,400	nuclear			131,400				
	Stony Brook	20,300	oil/gas			20,300				
	Wyman 4	3,123	oil/gas			3,123				
	GMP Peaking Units	6,410	oil/gas			6,410				
	VEPPI Wood (Ryegate)	114,907	biomass	114,907						
	McNeil	71,000	biomass	71,000						
	GMP Solar	554	solar	554						
	Searsburg	12,110	wind	12,110						
	Granite	258,508	wind	258,508						
	Kingdom Community Wind	126,802	wind	126,802						
	H446- Standard Offer	49,426	solar, methane	49,426						
	Moretown LFG	23,652	landfill methane	23,652						

Source: GMP Snapshot 2013; Supplied by GMP