EGSPC 2nd Draft Packaging of the Recommendations

(March 27, 2013)

The Commission proposes the following package of recommendations to improve the siting process for electric generation in Vermont. While many of these can be implemented through rulemaking, others will require statutory change. In order to assure expeditious completion of the recommendations, the Commission advocates that current processes under Section 248 remain in place until rulemaking and statutes are in place. It does not favor moving siting to Act 250 regulations or other similar proposals in the interim, but rather recommends moving quickly to implement the following package under five broad categories:

- *Increase emphasis on planning at State, Regional/Town levels, allowing RPC energy plans to carry greater weight in the siting process* to ensure that electric generation projects are sited, whenever possible, in the best places with adequate prior public input.
- *Implement a Simplified Tiered approach to siting* to achieve a quicker, more efficient review of a greater number of small/less controversial projects – and those that conform to Regional Plans - while focusing the bulk of PSB time and effort on evaluation of larger, more complex projects. The goal is to encourage more community/distributed projects while simultaneously providing for greater opportunities for public participation in larger projects. The commission recommends a three-tiered system, where projects are classified by size, but have the ability to be placed in either a lower or higher tier based on complexity, resource impact and if they meet (or not) certain screening criteria.
- *Implement specific process modifications to increase the opportunity for Public Participation*. The Commission acknowledges the need to increase opportunities to both inform and address public aspirations and concerns in the electric generation siting process. The emphasis on energy planning at the Regional/town levels is a key factor to address this. In addition, the Commission recommends several specific process modifications related to the simplified Tier structure.
- *Implement specific process modifications to increase transparency and efficiency and coordination*. The Commission recognizes that the dramatic increase in the numbers and types of electric generation dockets before the Public Service Board requires important refinements in the current processes to provide greater clarity, accessibility, transparency and predictability in the process to all parties. The simplified Tier process incorporates a number of detailed recommendations to this effect.
- *Update environmental protection – and other –guidelines (on a by technology basis, where necessary) and make them available on the website under the Simplified Tier approach.* As renewable energy technology is deployed at an increasing rate and related siting issues evolve, the Commission recommends that specific guidelines and checklists be developed to reflect these changes. Examples include guidance to minimize fragmentation of habitat blocs and to address potential health impacts of certain technologies. These guidelines should be made publicly available – with all other existing environmental and cultural guidelines related to siting - on the improved PSB siting website, based on peer-reviewed scientific standards.

Increase Emphasis on Planning

1. The DPS shall develop a roadmap for meeting State goals and statutory targets through scenario planning to determine: the mix of in-state and out-of-state renewables; the anticipated mix of technologies; and the broad parameters for cumulative impact. This planning should use available tools to incorporate environmental considerations as well as economic, transmission and load analysis.
2. Regional Planning Commissions (RPCs) shall develop geographic energy plans for high potential/low potential areas for electric siting by technology. The DPS/ANR will provide the necessary guidance, tools

and resources to RPCs to work with towns to develop plans. Examples of high priority areas could be where efficiency gains could be made (e.g., McNeil Biomass), 'low-hanging fruit' (e.g., brownfields, public buildings, new construction, rooftops, land under existing transmission lines, etc.), and specific zones. Examples of low potential areas might be those with a particularly high natural resource value, such as rare and irreplaceable natural areas, large habitat blocks or areas that provide an important habitat connectivity function. These high potential/low potential areas may differ significantly by technology, and no RPC or town can say 'no projects' in the region, either directly or indirectly.

3. The RPCs shall have automatic formal party status once their energy plans have been completed, and their plans shall carry greater weight in the siting process.
4. Initial RPC planning costs (est. $25,000-$30,000/region) should be covered by general funds, whereas annual updates should be covered by filing fees assessed to applicants (on a per MW basis) and a portion of a 'franchise fee' assessed to all merchant generators at a rate similar to the gross receipts tax assessed to Vermont utilities. The latter would also be used to cover some of the additional costs related to other recommendations on improving siting process efficiency.

Simplify Tier System

5. The Public Service Board (PSB) shall implement a Simplified Tier process to achieve a more efficient review of a greater number of small/less complex projects – and those that conform to Regional Plans - while focusing the bulk of PSB time and effort on evaluation of larger, more complex projects. The three-tiered system would classify projects by size, but have the ability to place projects in either a lower or higher tier if they meet (or not) certain screening criteria. Each tier would be accompanied by a clear checklist of requirements, available on the PSB website.
   - *Tier 1: Application Form Process* ($\leq$ 500kW, or the size of many school, municipal & farm-methane projects)
   - *Tier 2: Standard Process* ($\geq$ 500kW to $\leq$ 15MW)
   - *Tier 3: Larger Scale Process* ($\geq$ 15MW)
6. The screening process shall incorporate criteria designed to encourage the development of projects that will have the greatest chance of success and reflect regional priorities. Whereas the automatic default for tier designation is by MW capacity size (listed above), if a project meets certain criteria, it can be bumped from Tier 2 to Tier 1. Examples include one or a combination of the following: consistency with regional/town plans (those that have participated in the above-mentioned RPC planning process), community-led projects, proximity to transmission, positive ANR score card, proximity to load, appropriate land-use considerations (industrial, commercial, rural, residential), using existing structures. If a project does not meet minimum criteria for a given tier, it can be bumped upward to a more rigorous process.

Increase Opportunity for Public Participation

7. Provide earlier notification to the public in both Tier 2 and Tier 3 project applications. In Tier 2, the notification period should be moved from 45 to 60 days to all affected towns. In Tier 3, the period should be moved from 45 to 90 days.
8. Add increasing levels of public engagement requirements to Tier 2 and Tier 3 project applications. In Tier 2, examples include: demonstrated contact with Selectboard and RPC of affected towns, notification of adjoining property owners, description of public outreach, comments received and explanation of how they were addressed. In Tier 3, applicants would provide a Public Engagement Plan (PEP) to the PSB 150 days prior to the 90 days public notice. The PEP would be based on guidelines developed by DPS (using successful public engagement models such as VELCO and NY state). DPS would designate/contract a facilitator to work with each applicant to ensure the PEP is implemented effectively. The new notice periods and PEP process do not

replace the need for applicants to conduct the natural resource assessments and wildlife surveys that may be required by ANR.

9. Provide RPC funding support, if requested, on a cost-share basis in both the pre-application and application periods. These funds would cover expenses for those RPCs that have completed the planning process and would cover costs associated with experts, own time, attorneys and other related intervenor costs. Costs would be covered by bill-back.

Improve Siting Process for Increased Transparency and Efficiency

10. The PSB shall hire a Case Manager/Online Docketing Manager to provide guidance on all aspects of the siting application process to all parties, particularly as they relate to timing. In addition, the Case Manager would be responsible for ensuring that the improved website remains up to date.
11. Develop specific checklists for each Tier to establish when an application is 'deemed complete'. These would include the specific maps, studies and assessments required by ANR and any other information required by PSB, and may need to vary by technology.
12. Require concurrent timing of ANR permit filing and Certificate of Public Good (CPG). Applicants would be required to have *filed* the necessary ANR permits (and any associated Federal permits) as part of the CPG application that is 'deemed complete'.
13. Establish statutory timelines for all involved parties (applicants, intervenors, ANR, PSB) with consequences if not met. For example, PSB shall hold a pre-hearing conference within 14 days of an application being 'deemed complete', ANR shall respond to permit application consistent with ANR's statutory permit performance standards. Include these timelines in an online docketing system, accessible by all parties.
14. Establish an overall decision timeline for PSB approval of a CPG into Tier 2 & 3: 6 months for Tier 2, and 12 months for Tier 3.
15. Use 'rebuttable presumption' for ANR permits. If an applicant obtains a permit from ANR prior to completing the CPG process, the PSB will accept that approval as a rebuttable presumption.
16. Ensure that the improved website design includes: a) full accessibility by all parties; b) a Frequently Asked Questions (FAQ) section with clear layperson terminology; c) required checklists for the Simplified Tiers; d) a docket-management system to signal when new statutory timelines are met (or not); e) all ANR and PSB guidelines and standards by permit, study and by technology; and f) access to historical docket records and orders, easily searchable (and free to the public).

Ensure Adequate Environmental – and Other – Protection

17. ANR shall, to the extent feasible, update environmental protection standards and guidelines by technology under the tiered approach. Provide summary guidance on the improved website. Suggested areas include: setbacks, noise, habitat fragmentation, critical wildlife habitat, highest levels of efficiency, GHG and other air pollutant emissions, road construction (least intrusive and limited access), etc. Standards will be based on peer-reviewed, scientific literature.
18. Incorporate specific environmental criteria currently reviewed under Act 250 into the Section 248 process. These include: _____
19. DOH shall review national standards from peer-reviewed literature regarding health impacts and monitoring systems by technology and provide guidelines, where possible, to be updated annually as science evolves. Applicants will provide public health impact assessments under Tier 2 and Tier 3 projects as per 30 V.S.A. 248 (b) (5).

20. ANR and DPS shall develop guidelines and tools for understanding and measuring cumulative impact to be used in both the planning, application, and monitoring phases of each project.
21. All parties shall agree on 3rd party monitoring experts to be hired/paid for by the petitioner, and overseen by the appropriate agency (ANR, PSB, DPS, Health) under bill-back for pre-construction, construction and post-construction phases of a project. Public complaint responsibility shall be assigned to the relevant agency.

Other

RECs/RPS: The Commission recognizes that Vermont's current policy of allowing electric generating companies to sell their Renewable Energy Credits (or RECs) to other states has both positive and negative effects. It helps utilities keep electric rates to Vermont consumers at a lower level, but it also undermines the right of the renewable generators to claim renewable status. All other states in New England have adopted a renewable portfolio standard (RPS) that requires utilities to purchase renewable energy and retire the RECs. Addressing this issue will be critical to measuring how Vermont is meeting its own statutory goals for clean energy.

Agriculture/Energy Links: Wherever possible, provide incentives to help on-farm energy projects, insofar as they enhance the economic viability of farms (including selling electricity to utilities).

- DPS should explore the possibility of spreading the costs of electrical integration of manure-digester projects among the ratepayer base, given the multiple public benefits of manure management through anaerobic digestion that go beyond simple electric generation. This would provide a significant incentive for further development of on-farm distributed energy generation.
- Renewable energy projects should be allowed on conserved land when: i) the installation does not permanently commit a piece of prime agricultural soil or soils of statewide significance to the energy use either by virtue of costs of reversal or destruction of soil quality; ii) the installation does not severely threaten or eliminate the underlying farm's long term economic and agronomic viability as a farm.
- The PSB should adopt the framework currently under development by the AAFM, PSD and ANR to delegate responsibility for manure management systems in electric generation to the relevant state agencies under Sec. 248(b)(5).
- In cases (Tiers 2&3) where there is more than a *de minimus* impact on prime agricultural soils, soils of statewide significance or the project takes place on a farm as defined by the AAPs, the AAFM should become a statutory party.

Intermittency of Renewables and Siting Issues around Stored Energy: G*rid energy storage* is one method that the operator of an electrical power grid can use to adapt energy production to energy consumption, both of which can vary over time. This is done to increase efficiency and lower the cost of energy production, or to facilitate the use of intermittent energy sources. By doing so, a grid operator can reduce emissions and infrastructure while at the same time actually *increasing* the amount of electricity available to do useful work for consumers and industry. Electricity *storage* will be a key component of any initiative to increase the true energy efficiency of the grid, particularly as we move towards a much greater share of renewables.

As of March 2012, pumped-storage hydroelectricity (PSH) is the largest-capacity form of grid energy storage available; the Electric Power Research Institute (EPRI) reports that PSH accounts for more than 99% of bulk storage capacity worldwide, around 127,000 MW.

An alternate approach to grid energy storage is the *smart grid*, which can be designed so that usage varies on-demand with production availability from intermittent power sources such as wind and solar. End-user loads can be actively shed by the utility during peak usage periods, or the cost per kilowatt can dynamically vary between peak and non-peak periods to encourage turning off non-essential high power loads.

As Vermont, and the country, moves toward greater reliance on the most efficient use of renewables, issues surrounding the siting of storage facilities will likely become more prevalent. It is recommended that the DPS provide an analysis and recommendations to the PSB on this issue.