

## VERMONT ENERGY GENERATION SITING POLICY COMMISSION

### STATEMENT OF RICHARD SAUDEK

February 5, 2013

Thank you for the opportunity to comment on the siting of electric generation plants. I regret that I'm not able to attend this afternoon's session.

I'm a former state regulator. Since 1985, I've practiced law in Montpelier. Over the years, I have represented the Ryegate biomass facility in siting and CPG matters and have recently represented the towns of Sheffield, Lowell, Searsburg, Readsboro and Derby in connection with proposed wind developments in those towns. I'm working with the City of Montpelier in its efforts to build a biomass heat distribution system. For many years, I've represented Rockingham with regard to matters involving the hydroelectric generation plant there.

**In working with towns as they try to weigh the effects of these developments, I've come to the conclusion that towns – both “host” towns and surrounding towns – should have a greater say in the PSB's final determination. My attached suggested addition to §248(b)(1) is aimed at giving host towns more authority in the siting process. I think surrounding towns' positions need to be heard and dealt with in the process, but the current protections for them are probably adequate.**

Questions of siting are very different from questions of the need for appropriate generation. It's all well and good to promote certain kinds of generation, but that promotion shouldn't overwhelm siting decisions. In most cases, the effects of siting are confined to a relatively small area. The site chosen should be heavily influenced by the citizens of the area it affects.

Vermont isn't the legislature or the state government. It's a collection of small towns and places. One doesn't have to get nostalgic to acknowledge that the residents of these towns by and large have a good idea of the economics, the infrastructure, the views, the roads and the special places that exist there, and of what's worth protecting and what isn't. These are the things that affect their lives day in and day out. In my experience, the legislative bodies of these towns approach the development of electric facilities in a measured, thoughtful way.

By contrast, the legislature and the government deal in the “big picture.” Hardly a year goes by without pronouncements from Montpelier on the form of electric generation that will be the type *du jour*, to be backed up with subsidies and relaxed standards of review. In the last few years, Montpelier has gone from favoring nukes and holding wind in disfavor to favoring wind and doing everything possible to shut down our nuclear plant, to waffling on wind. There's no reason these trends should unduly influence siting decisions.

When a developer comes to a town -- usually having made a deal with a large landowner to build a facility there and having mapped out the regulatory process and thought through how to cast the development in a favorable light – the town must be in a position to say, “you'll have to convince us of the benefits of this development to the town before you can go forward with it.”

The towns are not in that position now. Developers know that the PSB has only to give “due consideration” to the towns’ positions and plans. They also know that a PSB ruling trumps a town plan if push comes to shove. And, of course, most developers have checked with State agencies to be sure they are generally supportive.

A few illustrations of the ways towns have approached these developments:

- The Ryegate wood-burning plant was originally intended for Randolph.<sup>1</sup> An out-of-state developer chose Randolph because “the woods are everywhere in Vermont, so put it in the middle of the state.” Opposition snowballed, somewhat to the surprise of the developer, who figured the plant would bring economic benefits to the town. The issue was large, noisy trucks crowding a very small downtown area. The developer took the wise course and found Ryegate receptive to the plant. And certainly the citizens of both towns were right: the plant is much less disruptive outside of Ryegate than it would have been adjacent to downtown Randolph, where it would have adversely affected businesses and worn out a fragile infrastructure. Ryegate, for many reasons is a much better site.
- Sheffield was approached by a wind developer at a time of severe economic stress for the town. The selectboard carefully studied the proposed development, particularly from the point of view of aesthetics and roads. Then, having decided these threshold questions, they entered negotiations over annual payments to the town. The development was big enough to be able to afford enough in payments to more than cover the annual town budget. Now that the project is running, it is expected that Sheffield will be able to have enough left over after paying its town expenses that it will be able to have a perpetual fund for the purpose. *That’s economic benefit.*
- Although Derby citizens and its selectboard took the question very seriously, Derby never got to the question of whether to support the siting of two wind machines in Derby Line. This case was withdrawn by the developer before hearings commenced, but it’s questionable whether the development would have been large enough to furnish a meaningful amount of money to the town. Without other significant economic benefits in the form of taxes or jobs, it’s hard to know whether Derby would have concluded it was in the town’s interest to host the machines.

I could go on, but that’s the nub of it. By the way, I haven’t followed the debate over intervenor subsidies, but I think the Commission should go slow on them. If towns or individuals have serious concerns one way or the other about particular siting proposals, they should be willing to spend the relatively small amounts it takes from their town budgets. This is particularly so if the law is changed to give them more clout in the process.

---

<sup>1</sup> In those days, biomass was known as “wood.”

(b) Before the public service board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment or construction:

(1) with respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. If the legislative body of a municipality in which a facility is to be located opposes the location within the municipality, the person seeking the certificate must show, and the board must make findings that demonstrate clearly and convincingly that the benefits to the municipality of locating the facility in the municipality outweigh the detriments. However, with respect to a natural gas transmission line subject to board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located;