

VT Energy Generation Siting Process Strengths & Weaknesses

Vermont Natural Resources Council

Presented to:

***VT Energy Generation
Siting Policy Commission***

Meeting #4 – December 6, 2012



Vermont Natural Resources Council

- Founded in 1963, VNRC is a membership organization with over 4,000 members and activists.
- Four Policy Programs: Energy & Climate Action; Forests & Wildlife; Sustainable Communities; and, Water. Committed to public involvement in all decision making processes.
- Involvement with Act 250 and § 248 – intervened in three proceedings in past 5+/- years (wind, biomass, nuclear).
- Primary areas of concern in those proceedings:
 - Promote transition to renewable energy
 - Forest health
 - Wildlife habitat
 - Water quality

Siting Approval Practices #1

Strengths & weaknesses:

- PSB provides a consistent forum and process for reviewing energy projects.
- PSB has a critical role in helping to ensure Vermont's energy security and protecting ratepayers.
- Streamlined process for small scale, net-metered facilities.
- PSB lacks the in-house expertise, to address complex environmental and land use issues.
- PSB (and ANR) is likely understaffed given recent case load.
- Timelines are burdensome for NGOs and citizens with limited resources; parties can become easily overwhelmed.

Siting Approval Practices #1

- CPGs are sometimes issued prior to the issuance of related environmental permits or are issued with conditions subsequent to future permitting, although those permits may relate to project design or compliance with specific criteria.
- There is a lack of clarity around deference given to ANR; Agency permits are not always aligned with § 248 criteria (e.g. water).

Siting Approval Practices #1

Ideas for improvement:

- Require that applications be complete prior to acceptance for review; applications deemed incomplete, or that involve changing technical information after the review has started, should be pulled and the process not re-started until they are complete.
- Consider requiring that state and federal permits be obtained prior to CPG (consider partial findings).
- Technical staffing at the PSB, or the relationship to ANR in the review and administration of environmental criteria, should be clarified. Deference should not prevent parties from challenging ANR decisions.

Siting Approval Practices #2

Strengths & weaknesses:

- Use of Act 250 criteria and (limited) recognition of town and regional plans provides some permitting consistency.
- However, existing criteria (including Act 250) are outdated relative to current science (e.g., hydrology) and circumstances (e.g., climate change/greenhouse gas emissions).
- Likewise, consideration of local and regional plan does not align well with Chapter 117.
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Siting Approval Practices #2

- Existing criteria relate to site development but not landscape-scale resource impacts or assessment of cumulative regional impacts.
- Lack of clarity around “consideration” of Act 250 criteria in the context of determining that a project is in the public interest.

Siting Approval Practices #2

Ideas for improvement:

- Review and update existing criteria (including Act 250, ANR policies and rules) to reflect current science and conditions; align agency permitting with review criteria.
- Use ANR's resource inventory to guide large-scale energy facilities to areas with minimum impact, and to avoid landscape scale fragmentation.
- Strengthen town and regional plan conformance for land use and natural resource protection, provided plans make reasonable provision for renewable energy development.
- Guidelines to address recognized impacts to environmental resources or public health should not be voluntary.

Public Participation/Representation mechanism

Strengths and Weaknesses:

- Public hearing held in affected area.
- Ability to pursue intervener status.
- Consideration of Town and Regional Plan provides opportunity for citizen involvement prior to review siting and review process.
- NGOs and citizens can lack the technical, legal, and financial resources to fully and effectively participate.
- The lack of a record or formal opportunity for public comment as part of process is dismissive of the time and effort of citizens to participate.

Public Participation/Representation mechanism

- The lack of an alternative dispute resolution or stakeholders process.
- The allocation of community benefits to the host town(s) may not be relative to the impacts to neighboring communities.

Public Participation/Representation mechanism

Ideas for Improvement:

- Early consultation by developers (and agencies) with affected parties would help limit the scope, complexity, and cost of participation. (ANR may begin working with developers two years prior to filing and application.)
- Clarifying, and strengthening, the role of Town and Regional Plans.
- Alternative dispute resolution/stakeholder engagement process should be explored.
- Consider regional allocation of community benefits based on impact.

Adequate protection of lands, environmental & cultural resources

Strengths & weaknesses:

- Comprehensive review of impacts by ANR and other state agencies.
- Mitigation measures are not consistently applied.
- CPG's are issued prior to resolution of environmental permits.
- Standards relate to site development but not landscape-scale resource impacts or assessment of cumulative regional impacts (a significant challenge in most permitting processes).

Adequate protection of lands, environmental & cultural resources

Ideas for improvement:

- See Approval Practices #2
- Use ANR's resource inventory to guide large-scale energy facilities to areas with minimum impact, and to avoid landscape scale fragmentation.
- ANR should identify mitigation guidelines for specific resources, including forest health, habitat, etc.

Monitoring Compliance

Strengths & weaknesses

- PSB is poorly equipped to enforce multiple, dispersed and complicated conditions related to environmental impacts.
- Lack of consistent monitoring protocols.
- Cumulative impacts of multiple projects on a resource (e.g., water, habitat) or community is a significant challenge in most permitting processes.

Monitoring Compliance

Ideas for improvement:

- Develop consistent monitoring protocols for specific resources.
- Expand enforcement capacity at DPS, or in conjunction with ANR/NRB.