

Remarks of Heath Boyer, Windham Vt to the Governor's Siting Commission December 6, 2012

My name is Heath Boyer. I am a resident of the town of Windham. I have served the town since 2007 as a Commissioner to the Windham Regional Commission where I have sat on the Energy and Project Review committees throughout my tenure. I currently serve as the volunteer staff assistant and researcher to the Windham Select Board and Planning Commission.

Because the town is awaiting disposition of a Section 246 application before the Board it is not appropriate to argue that case here. The written filings are complete and no hearings are anticipated. The correspondence is available on the town website at windhamvt.info if you care to view the legal arguments. Fittingly, the core of the case is about the place of town plans in energy siting regulation and the meaning of Due Consideration.

Because we are in the midst of the process I must take some liberties with the template. I am also old enough to be utterly power-point impaired.

Regarding #1 of Siting Approval Practices we have no useful observations at this time regarding agencies, permitting or timelines.

Regarding #2 we share the concerns of many towns regarding the absence of clear, strict and relevant siting guidelines with respect to things like set-backs and noise and light pollution and all the ecological issues like slopes and soils, storm water and ground water and wetlands and habitat.

Regarding Public Participation, we are hopeful that this commission can find ways to give more prominence to the legitimate concerns of the public.

Regarding protection of lands, environmental and cultural resources, we believe that these concerns are at the heart of most town plans, and so their importance cannot be overstated. In many ways these issues are the core of what Vermont means to its citizens and to its visitors. They should be of special concern in siting decisions.

Regarding Monitoring Compliance – like everyone, we're learning from experience. Since we are in new territory the principle is clear: penalize violations and pay prompt attention to unintended consequences.

In summary, so far the 246 process, while challenging for us, has been orderly and reasonable.

While the commission is charged with looking at siting all kinds of generation, Windham has chosen to comment today because we are dealing with the issue of industrial scale

wind for the second time since 2005. We are grateful for the chance to share some of our concerns.

The balance of these comments are offered in behalf of all small towns who are now or may be faced with extraordinary changes in their natural, social and economic environments resulting from the sudden and speculative development of energy projects.

The people of Vermont are fortunate to have the opportunity represented by this commission. Your work is as necessary as it is timely. Thank you for serving. Your task amounts to providing a major “how-to-get there” component of the state energy plan.

That said, I would suggest with respect, and no small amount of sympathy, that your charter as a commission starts in the wrong place. Today the development of new generation is primarily a site-driven process directed by private interests and extravagant tax and financial incentives. In essence single landowner with a good location in partnership with a developer with deep pockets can change the landscape of an entire region. To the extent detailed energy planning plays a role in these cases so far, it appears to be a minor one.

The system is a wrenching departure from tradition because it is the product of the deregulation of electric utilities. A principle goal of de-regulation, after all, was to unleash the capital markets and make more investment dollars available for the former regulated industries and related technologies. In accomplishing that goal we have significantly empowered developers of merchant power. An unintended consequence is that we have largely disempowered the public by changing the nature of the regulatory process.

Historically the Public Service Board members were guardians of a quintessentially adversarial process which in general served the public well. It wasn't perfect, but few things are. The process required the Regulators to base their decisions on behalf of the rate payers on detailed justification for the investment decisions that would affect the availability, quality and economics of the services they received. The cases for new generation always began with a demonstrated need. Some utilities felt the process was needlessly arduous and meticulous, but it was the system imposed on them in return for the convenience of operating as monopolies as long as they fulfilled the necessities of availability, quality and affordability of service. When the electric power and telephone industries were “deregulated” this adversary system was largely dismantled.

In essence what was formerly a regulated public service with all the protections inherent in that structure is now being driven in Vermont by a frenzy of development activity that can only be compared to oil field wildcatting or gold rush prospecting.

The public is now cast in the role of annoying third party to the dialogue between developers and regulators. We are annoying because we feel we must fill a role for which we are neither qualified nor empowered – a role which is today largely vacant because the regulatory process has been so stripped down that the regulators are

constrained by their reduced charter and tight budgets, not to mention – shall I say it? – political considerations. Their work is demanding. They seem to do it well, and with good intentions. But the role of public advocacy as we once understood it is left to – – the public itself; the annoying - and in its understandable fear and grief and anger and frustration - the sometimes belligerent public.

Many of us hope that the appointment of this commission signifies recognition that the Public Good requires a re-rebalancing of our system to restore some level of expert advocacy to the public side of the debate. Looked at through the lens of deregulation and the public process we believe an essential task of this commission is to examine this imbalance and to discover where equitable corrections are possible.

The public I know is concerned about climate change and believes in renewables. We see, particularly my generation, that we have been careless with our use of energy and the environment. We want to be part of the solution, but we want to do it in ways that do not repeat or compound the mistakes of the past. We have questions, and we know the answers to many of those questions will not be found in the promotional literature of developers or the talking points of lobbyists. The answers are, however, emerging from communities around the world as we gain more experience with utility scale renewable energy. The early lessons for us are that we need a process that not only corrects old problems but anticipates and avoids new ones.

In terms of improving the process we would recommend a pre-application protocol, in a separate docket, where all new utility scaled generation is examined against expert considerations of statewide demand, reliability, stability and

non-generation, non-transmission alternatives and community scaled generation potential. The protocol should also include a science-based assessment of the potential of Vermont's renewable energy capacity to have a meaningful effect on the reduction of atmospheric carbon in the region.

Such a review process should not be unduly burdensome considering the resources available to applicants whose business it is to develop utility scale projects. It is however, a burden that must be born if we are to avoid sacrificing more of our environment than we will save by adopting inappropriate technologies. Renewable energy is not a one-size fits all solution.

I referenced siting criteria earlier. We know that ANR have proposed standards that have yet to be adopted. We hope a detailed review of those proposals should be a part of this Commission's work.

Large scale wind energy systems are a relatively recent development. In this country and around the world there is an emerging body of independent and science-based information about the possible shortcomings and negative consequences of this technology.

This information leads to a growing list of questions:

What is the real effect on emissions of intermittent renewables?

How good must a wind resource be to justify the disruption necessary to build a generating station?

What are the real health issues from noise, pressure waves, flicker and lighting close to inhabited areas?

What really happens to property values?

What are the positive and negative financial consequences for towns and taxpayers?

How are the colliding interests of adjacent landowners to be dealt with?

Today it is largely the public – the small town officials, the volunteers, the activists, - who are trying to get attention to these issues. Because it has been “only” the public, the annoying public, the issues often seem not to have been taken as seriously as they deserve.

These are questions and issues that the industry has attempted to assign to the fringes of the debate. When they aren't denied, they are usually dismissed. As answers emerge to many of these questions they are often answers the industry does not want to hear.

The public deserves that expert examination of this kind of information be a rigorous part of the decision making process on every utility scale project siting case.

We do support a moratorium on large scale renewable development - especially wind - until we can determine what systems are most appropriate for Vermont and where they can be sited effectively, safely and equitably.

We also urge that everything possible be done to encourage and expedite the deployment of community and residentially scaled renewables projects.

In closing we recognize that The Public Good is a statewide standard and that sometimes towns will have to stand aside. The plain truth is that if the notion of Public Good has real meaning the people most directly affected by these and other emerging questions deserve the most careful and expert answers obtainable as we work together to save the our environment.

We are operating today in a virtual frenzy of development activity for huge generation projects in the name of the environment. It is a paradox to see it happening in a state where fast food and big box stores face insurmountable permitting obstacles and where there is not a billboard anywhere.

Thank you for your attention. My references and sources are at your disposal.