Renewable Energy Vermont testimony to Vermont Senate Finance Regarding S. 201

March 11, 2014

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Thank you, Introduction & Who REV Is.

Unfortunately, REV cannot support S. 201 as it is currently drafted for numerous reasons.

I say "unfortunately" because there are elements of the bill that we do support in principle, but not as currently drafted.

The Statement of Purpose includes the goals of encouraging regional and local energy planning and engaging the public in the energy-policy decision-making process.

REV supports these goals.

However, from REVs perspective, the bill, if passed, would not, as stated as a purpose on page 1, line 11, achieve energy planning in an "orderly fashion", but would rather create confusion and redundancy in the Section 248 permitting process. Ultimately, the bill would upend the principles of a functional regulatory approach. The core principles of a functional regulatory approach are: (1) predictability, (2) timeliness, (3) fairness.

Local Control of Energy Siting

From REV's perspective, this is placing the cart before the horse – asking regional planners, with little or no training in energy (and no increased funding in this bill to assist them in training) – to identify the locations where projects may be built, but not look at how much energy is needed.

Because this bill focuses on electric generating facilities in Vermont, and not transmission, what it ultimately does is, if a region does not wish to have renewables in their area, require that Vermont increase how much energy we transmit into our state. The concept of "conformance" (p. 12 line 14), means that RPCs will effectively control the siting of electric generation facilities.

This is likely to greatly limit Vermont's flexibility in keeping rates low by having locally sourced energy, will greatly impact the renewables industry in our state, and sets Vermont in a place where we are dependent on others outside of Vermont to supply us with the bulk of our electricity needs now and into the future.

An area of confusion is that the bill requires the PSB to give "substantial deference" to regional plans (p. 11 line 14), but only due "consideration" for the environment (p. 14 line 7,8).

Questions regarding these changes:

1. What is the impact to state energy needs from prohibitive language in the regional plans?
2. Will there be additional funding or training for RPCs to assist them in determining Vermont's energy future?
3. How will these changes impact timeliness, predictability and fairness in the permitting process?

Participation in the Process

The bill has language regarding six areas of participation in the process. Some appear to be redundant, as they are standard PSB process currently, while others will significantly impact the ability to improve projects.

Limits Discovery:

The bill limits discovery to "that which is necessary for a full and fair determination" (p. 9 line 6,7), considering the "relative resources of the parties" (p. 9 line 8). State agencies, and all parties, use discovery to understand the project's impacts and request/require improvements from the developer. Also, the language here seems to be ambiguous and, if passed, will likely be used to complicate and delay proceedings through litigation of the meaning of its application and words. (E.g., does "the need for disclosure by the applicant" mean the applicant's need for disclosure or the need for the applicant to disclose?). Discovery is what leads to project improvements. Through discovery, stakeholders can ask developers to modify projects. Example: ANR made environmental requests for Sheffield (reduced size, laid wiring underground, etc.).

Rigidifies the Process of Project Planning:

This bill prevents course correction, and responding to what is found during the project process by prohibiting post-Certificate of Public Good review (p. 9, line 11-19), while moving forward the "Notice of Intent" deadline for a developer to six months PRIOR to filing a CPG, while moving back the date for RPCs to respond to the CPG filing to 21 days after the filing (p. 15, line 8-21; p. 16, line 1-7).

The current process makes sense – show why you should be involved, and that no one else is going to protect your interest. If there is one landowner who does not wish to have a project nearby, how does it help improve the process by making it easier for every landowner to intervene separately? Ultimately, this increases costs by increasing discovery (to the extent that is or is not allowed), lengthens the timing, and impacts predictability in the process.

Questions regarding these changes:

1. Do we unintentionally want to limit the possibilities for improvement that **discovery** can lead to?
2. Do we want to **prohibit post-certification review**, thereby reducing the leverage of the PSD and PSB to require additional aesthetic mitigation in the event an accepted and approved plan is insufficient to mitigate a projects' actual impacts?
3. What is meant by having the post-certification review be prohibited for **only certain infrastructure** (e.g. electric generation facilities, and not telecommunications or transmission)?

Curtailment/Transmission

The chief problem with this provision is that it assumes all generation facilities interconnect with the transmission system that then ties to the regional grid. Many facilities interconnect at a sub-transmission or distribution level and could never satisfy this criterion. This section may not reach the bill's intent while likely leading to unintended consequences.

Questions regarding these changes:

1. Does this provision mean curtailment ordered by ISO-NE or curtailment by the generator itself (for maintenance and repairs)?
2. How will the Board implement this criterion in terms of proof that there won't be transmission congestion?

Relationship between Act 250 and Section 248

The current process in Section 248 is that the Board reviews all of the same elements as Act 250 – but then allows for more environmental review as determined by ANR, such as habitat fragmentation and wildlife corridor issues. The difference between Section 248 and Act 250 is that the Board can determine that, although one of the criteria may have impact, the overall project is in the interest of the public good, and thereby grant the CPG.

This difference is a critical, key issue, as energy is a statewide need and shared responsibility, as opposed to a traditional development, such as a new shopping mall in a particular region, does not necessarily have statewide impacts.

Questions regarding these changes:

1. This only applies to projects that are not reliability projects – who decides this? It is arguable that every generator connected to the system is a reliability project, particularly distributed generation that acts like a load reducer, which can be considered to have reliability benefits
2. Does this mean that the project and the interconnecting utility will not need to follow the PSB's interconnection and safety rules?

Green House Gas Emissions

The bill requires PSB to consider all GHG emissions avoided by and related to the facility during its life cycle (p. 19 lines 2-8). The PSB must already consider this. The bill establishes a new standard but does not clarify how the Board should meet these.

Questions regarding these changes:

1. Does this bill require project developers to know exactly how many trucks will drive how many miles for construction; how many and what types of vehicles the construction workers use to

get to the project site; count the emissions from manufacturing the materials and equipment used for the facility etc.?

Fees

REV has stated in public record to the Energy Generation Siting Policy Commission that an appropriate fee makes sense as long as there is accountability for the fee – meaning, that all of the fees go directly towards staff that work only on Section 248 permits and that, with a new increased cost, there should be a resultant benefit (e.g. with more staff, there should be fewer delays during the permitting process). However, this bill creates a new application fee that is unfairly applied (p. 10, line 1-14). From REV's lawyers reviews, the fee would apply to WEC (but not other electric utilities), Vermont Gas, VELCO, merchant transmission and generation facilities. Billback is currently available – and is starting to be used. This provision adds costs to the process in an inconsistent manner. Finally, is the fee as currently defined in the bill appropriate? It would make sense to review how many permits have been undertaken over the last 1, 2, and 3 years to identify if the fee proposal will address the issue at hand – or whether it may provide too little or too much support.

Meteorological Towers

The bill requires that for Section 246, the area pertaining to "Met" Towers, that the PSB establish CPG requirements, apply the new party status and friend of Board changes described earlier and establishes a $20,000 or other calculated application fee (p.24, ln.17 – pg.27, ln.6). There have been over 15 discussed wind projects in Vermont – but only 4 have been built. This provision makes the very basic, first step - determining if a location is a reasonable wind resource - even more challenging and costly.

Closing

Clearly, REV has multiple concerns with the proposed bill. The areas we support are developing Forms for entities to Intervene, so that it is an easier process; identifying an appropriate fee; empowering local and regional entities to learn more about our energy choices and what they cost in dollars, jobs, environmental health, human health, energy security and economic security.

However, we are deeply troubled by this bill. The end result will be to slow down clean, renewable projects in our State. This will impact our state energy and environment goals, local renewable jobs, Vermont energy security – and therefore – our economic security.