



## Senate Committee on Natural Resources & Energy

### S.201 Energy Facility Siting Review

January 28, 2014

The Vermont Planners Association (VPA) is a nonprofit, membership-based organization consisting of professional and lay planners, and others also interested in promoting coordinated comprehensive and strategic planning as the basis for sound policy and program development and regulatory oversight. We'd be pleased to meet with the committee to discuss the following VPA positions regarding S.201 and related legislation, and very much appreciate your interest and consideration.

***VPA strongly supports S.201, as introduced, which is intended to strengthen the consideration given to municipal and regional plans in the Section 248 process, as recommended in the Energy Generation Siting Policy Commission's Report.***

- **Under the Vermont Planning and Development Act (24 V.S.A, Chapter 117) municipal and regional plans have long been required to include “energy” and “utility and facility” elements.** Plans must address energy consumption, efficiency, conservation and renewable energy resources, and the adequacy of existing planned utilities and facilities, within the broader context of coordinated economic and community development, land use and resource conservation. An adopted plan provides the policy basis for local and regional energy programs – which by law must conform to and implement the plan – and for the municipal regulation of smaller renewable energy systems as authorized under the Act (though this has effectively been pre-empted for net-metered systems under PSB jurisdiction).
- **Municipal and regional plan policies, and related recommendations, should be given “substantial deference” by the PSB, as defined in proposed legislation** – especially in the absence of more comprehensive state planning, and related policies or standards, that address facility siting and development in relation to planned community and economic development, land use and resource conservation objectives; and in the absence of any other available process or mechanism by which municipalities and regions can address both the positive and negative effects of energy facility development.
- **Strengthening the weight given to plans in PSB proceedings will also serve to improve plans and the planning process in advance of permitting.** The quality of energy planning at the local and regional level reflects in part the information and data available, or lack thereof, needed to inform the planning process. Giving more weight to local and regional plans should result in better coordinated local, regional, department and utility planning, and improve the amount and type of information available to planning commissions. Giving municipalities and regional planning commissions the ability to more effectively participate in PSB proceedings also helps justify the preparation of more relevant, specifically articulated energy plans.
- **VPA also strongly supports the Public Service Department's proposal to require that energy facilities conform to any provisions of the regional plan that are specific to such facilities, if the plan meets requirements specified in the bill** –to include, with DPS assistance, the identification in the plan of areas in the region that are suitable, and not suitable, for particular types of energy facility development. Again, especially in the absence of any state planning or guidance in this regard (outside of prohibitions for facility siting on state lands), regional plan objectives specific to such facilities – developed with the participation of member municipalities – should apply. We defer to VAPDA regarding the specific provisions under this section of the bill, including related regional plan requirements. We also support the Siting Commission's recommendations for additional funding for interested RPCs to update their plans.

**VPA has also long been concerned that, under the expedited permitting process that currently exists for net-metered systems of 10 kW or less (and as proposed to be expanded to up to 15kW systems), there is effectively no opportunity to review, at the state or municipal level, the unintentional adverse impacts these systems may have on critical natural and cultural resources.** While this is not specifically addressed in S.201, we understand that the committee will have the opportunity to consider this under related net metering or facility siting legislation.

Vermont is the only state, to our knowledge, that has completely pre-empted local regulation of smaller renewable energy systems and, furthermore, has adopted no state standards or guidelines for their siting and installation. This issue first arose with regard to the installation of energy facilities within flood hazard areas, as required to be regulated by municipalities under the National Flood Insurance Program. The PSD confirmed that they do not review siting within hazard areas; given this we have asked that this exemption be addressed under ANR's proposed flood rules as necessary to ensure community compliance with NFIP program requirements. This concern has also been raised with regard to facility siting in regulated wetlands, within public rights-of-way and on historic properties.

**We are therefore very supportive of the Department of Public Service's recent proposal to require applicant certification that small solar systems (<15 kW) meet municipal setback requirements as required for other forms of development.** We respectfully request that, if and when this comes before your committee, you also consider the following:

- Re-instituting this requirement in the net metering bill, as deleted by the House Committee on Natural Resources and Energy, or in related legislation.
- Extending this provision to include *all* small energy facilities, including wind energy systems.
- Requiring applicant (or municipal) certification that the system also **meets relevant municipal bylaw standards or guidelines for the siting of facilities on historic properties**. In lieu of this, system installations at minimum should conform to the Secretary of Interior's Standards for Rehabilitation for new technology on historic properties (attached). Federal guidance is also available for wind system installations. As noted in their technical guidance:

*Rehabilitating historic properties often involves introducing new systems or features to meet contemporary needs. These changes can usually be made in ways that are sympathetic to the existing structure and site. In order to accomplish a sensitive alteration, new features should be both compatible with the historic property and reversible.*

*Adding solar panels to historic properties can have a significant impact on the character and visual qualities that convey a property's cultural significance. Solar panel installations should not become prominent new elements that detract from the character-defining features of a building or landscape. To assist property owners, historic preservation commissions, and policy makers, we have developed guidance for applying the Standards for Rehabilitation to the installation of solar panels on historic properties. Additional guidance is available in ITS 52: Incorporating Solar Panels in a Rehabilitation Project which provides examples of compatible and incompatible installations of solar panels on historic buildings.*

Technical Preservation Services, National Park Service, US Department of the Interior  
<http://www.nps.gov/tps/sustainability/new-technology.htm>

Burlington and Woodstock in particular have raised concerns regarding the adverse impacts of recent facility installations on historic properties in their respective communities. We understand that they have taken the time to contact the committee directly.