

Siting Electric Generation in Vermont

Analysis and Recommendations

Energy Generation Siting Policy Commission

*A Report to the Governor
and the Vermont General Assembly*

(April 2013)

		how the petition has addressed these comments.	showing the location of the project and a brief summary of the impacts of the proposed project.	hearing for scheduling conference)	
<p>*Application form templates & checklists for each Tier shall be developed by PSB in conjunction with ANR and reference any maps, studies or resource assessments ANR requires for that Tier.</p>					

Recommendation 6: Develop an incentive structure within the Tiers.

In order to encourage projects that are community led and/or supported, or to reflect the top priorities of a given municipality or region, the Commission recommends developing an incentive structure within the tier system to enable these projects to be expedited. If a particular electric generation project has the full support of a municipality or region, it should trigger a more expeditious process in the proposed new tiers.

4.5 Increase Opportunities for Public Participation

The Commission believes that an increased emphasis on state, regional, and municipal planning, as outlined above, will be a key factor in increasing opportunities for public participation at all levels in deciding where electric generation is best sited. In order to formulate a regional energy plan, it is expected that municipalities will play a central role in the process. For those regional plans that are determined to be consistent with the legislated energy goals and the CEP, they will be considered dispositive. The role of the public will be further strengthened by the following complementary recommendations within the proposed Simplified Tier system:

Recommendation 7: The PSB shall establish a ‘trigger point’ whereby the public is notified of when scoping meetings with ANR and PSD begin and documents exchange hands regarding a proposed project.

The notification would be placed on the improved PSB siting website (Recommendation #19).

Recommendation 8: The PSB shall provide earlier notification to the public in both Tier 3 and Tier 4 project applications.

Exhibit 16: Proposed Public Notification Periods		
Tier	Size	Public Notification Period
Tier 1	<500kw	At time of registration
Tier 2	500kw to 2.2 MW	45 days prior to filing
Tier 3	2.2 MW to 15 MW	60 days prior to filing
Tier 4	>15 MW	90 days prior to filing

Currently, an applicant is required to submit plans for construction to affected municipal and regional planning commissions and municipal legislative bodies 45 days prior to applying to the PSB for a CPG (for a project over 150 kW). Applicants must provide notice of the proposed project to each adjoining property owner at the time the petition is filed with the Board.¹⁷ Many feel that this time period is too short for local parties to digest project information and develop an adequate and appropriate response, particularly for larger, more complex projects. Consequently, issues are often raised after an application has been completed, which can slow the process down and impose additional costs for everyone involved.

In Tier 3, the notification period should be increased from 45 to 60 days to all affected towns. In Tier 4, the period should be increased from 45 to 90 days (see Appendix 6). The intent is to give more time for affected parties to read and understand the project implications, and prepare responses, if necessary. It is also expected that because municipalities and regions will have already developed energy components of their plans, the proposed projects will be better prepared, as will the local authorities.

The PSB shall also review PSB Rule 5.403 to ensure that the rule provides sufficient notice to all affected towns. The definition of 'affected towns' may need to be assessed on a case-by-case basis.

Recommendation 9: The PSB shall add increasing levels of public engagement requirements to Tier 2, Tier 3, and Tier 4 project applications.

The Commission recognizes that the best developers already engage in this type of process, and often do so far earlier than is recommended here. This recommendation is not intended to undermine these efforts, but rather enhance them and require others who do not follow these processes to do so.

In Tier 2, examples of public engagement in the application should include: demonstrated contact with municipal selectboards, planning commissions, and the relevant RPC of affected towns, notification of adjoining property owners, along with a description of public outreach, comments received, and an explanation of how they were addressed.

In Tiers 3 and 4 (in addition to Tier 2 requirements and longer public notification deadlines), the PSB shall hold public hearings in at least one of the municipalities potentially affected by the project. Require the PSB to formulate areas of inquiry, among others, based on the principal concerns raised in the local hearing process. Include all recommendations of the municipal and regional planning commissions and the municipal legislative bodies in the PSB's evidentiary record. Ensure that any decision on a given project addresses the principal concerns raised in these recommendations.

In Tier 4, applicants shall provide a Public Engagement Plan (PEP) to the PSB 150 days prior to the 90 days public notice. The PEP would be based on guidelines developed by the PSD (using successful public engagement models such as VELCO and New York State, (see Appendix 8). PSD would designate/contract a facilitator to work with each applicant and the relevant public entities to ensure the PEP is implemented effectively. The applicant would be required in their petition for a CPG to identify and respond to issues raised through the PEP process. The new notice periods and PEP process do not replace the need for applicants to conduct the natural resource assessments

¹⁷ Applicants of projects the PSB finds meet the requirements of 30 V.S.A. § 248(j) are not required to provide notice to adjoining property owners. However, applicants must include the names and addresses of all adjoining property owners with its petition. PSB Rule 5.402(F)(3).

and wildlife surveys that may be required by ANR (see Appendix 6 & 9 for details). The Commission recommends further development by PSD of what constitutes a PEP. The suggestions below are drawn from the New York example.

The purposes of the PEP are to:

- provide for an open exchange of information and ideas between the public and the applicant;
- provide complete information on the application to the public;
- provide meaningful public input to key decisions
- foster active, early, and continuing involvement of interested or affected persons
- solicit public comments, ideas, and local expertise
- identify impacts which may not have been known or anticipated by the applicant or government agencies

Suggested elements of a PEP are:

- consultation with affected agencies and other stakeholders
- pre-application activities to encourage stakeholders to participate at the earliest opportunity
- activities designed to educate the public as to the specific proposal and the 248 review process
- establishment of a website to disseminate information to the public
- notifications
- activities designed to encourage participation by stakeholders in the certification and compliance process

In addition, the applicant is expected to communicate with the public early in the pre-application process through the use of various means such as media coverage, direct mailings, fliers, or newsletters. This should be done before any agreements on project stipulations have been made between the applicant and interested parties. The applicant is also expected to hold public meetings and offer presentations to individual groups and organizations.

Recommendation 10: Provide RPC funding support, if requested, on a cost-share basis in the application period, defined as the point at which they receive official notice of the project.

These funds would cover expenses for those RPCs that have completed the planning process (in Recommendation #2) and would be applied to expenses associated with experts, staff time, attorneys and other related 'party' costs. These costs should be funded under the following limits.

- In order for a RPC to be eligible to receive funding, the PSD must first determine that the energy implications of the regional plan are consistent with the legislated energy goals and the CEP. Under this scenario, the PSD does not have any direct control over the region's plan, but there is an incentive for the RPCs to make the regional plan consistent with the CEP and legislated energy targets.
- Once a RPC has been cleared to receive funding, the funding would be limited to arguments of whether or not the project is in conformance with the regional plans. In addition to that limitation, the expense would have to be reasonable and the funding would be provided on a cost-share basis. This share will be determined by the PSB (e.g. 70% state, 30% RPC).

If a municipality raises an issue, and the statutory parties (ANR, PSD, etc.) cannot resolve the issue, then the PSB has the authority to hire an expert to address the concern.

