



VERMONT

PUBLIC SERVICE DEPARTMENT

An Evaluation of Ratepayer Advocate Structures Pursuant
to Act 56, Section 21b –

A Report to the Vermont House Committee on Commerce and
Economic Development and the Senate Committee on Finance

February 22, 2016

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EXECUTIVE SUMMARY

This report is prepared in response to a legislative request in Act 56 of the 2015 session. It provides an overview and evaluates different ratepayer advocate structures, and addresses concerns that have been raised by some regarding the effectiveness of the Department in advocating for the public. We appreciate and discuss the public comments received during this review process. Attached as appendices to this report are a summary of the interviews conducted, the public comments received, and a transcript of the four public hearings conducted. As a result of this evaluation, in this report we explore some potential internal changes that we believe would lead to increased accountability and engagement with members of the public.

We find that there is no single optimal ratepayer advocate structure. Instead, the selection of an appropriate structure must balance goals of protecting the public, administrative efficiency (and corresponding cost to ratepayers), and most importantly, fulfilling the statutory responsibilities assigned to the appropriate entity. It is important to note that Vermont's existing structure is very different than those of other states and there appears to be confusion concerning the role of the public advocate. Unlike many other states, the public advocate, including its ratepayer advocacy function, is not a stand-alone entity, but is one component of a broader administrative agency (the Public Service Department, or PSD) tasked with implementing Vermont's statutory goals. As a consequence, the public advocate, by statute, is not designed to simply be a "ratepayer advocate" striving for the lowest rates; instead, as part of a comprehensive Department, it is specifically tasked with advocating for the public interest, advancing the statutory goals established by the Vermont General Assembly. To the extent that some entities would like the Department to take positions that are designed solely to reduce rates, without regard to the energy and telecommunication policies set by the state, we believe that such a dramatic shift in how the Department functions, if desired after consideration of this

report, would be best accomplished through statutory change. We take and follow direction from the Legislature, and recommend careful consideration of the benefits outlined herein of the existing structure before invoking substantive changes.

This said, we heard constructive and relevant comments from the general public, and take these comments to heart; accordingly, as a result of this examination, we are seeking comment on changes to certain aspects of our work that, within our existing statutory charge, should help address some of the comments we heard. We welcome your review and consideration of this report and are happy to discuss any of its analysis or recommendations.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Christopher Recchia".

Christopher Recchia, Commissioner
Public Service Department

I. Introduction

The Public Service Board (PSB or Board) sets the rates paid by every Vermont public utility customer, determines whether generation, transmission and certain types of telecommunications infrastructure can be constructed, establishes the level of spending on energy efficiency programs, oversees the implementation of renewable energy programs, sets service quality standards for utility customers, and makes many other decisions that affect potentially every state resident and Vermont's economy and its natural environment. The PSB structure acts as a "court" with DPS acting as the public voice in their proceedings. Testimony is provided under oath, with discovery, testimony, briefing and cross examination following the rules of civil procedure similar to procedures followed by Vermont courts.

Those who participate in related proceedings need to have a high degree of expertise (and frequently, outside expert resources) and experience. Meaningful participation, including litigation related to utility regulatory issues, is often a very expensive and time consuming process. Individual residential and small business consumers, or even groups of consumers, usually lack the time, resources and expertise to participate in such complex regulatory proceedings, even where major decisions are being made that affect their costs, their environment, and their access to critical services.

The Public Service Department (PSD or Department) represents the public in every case in front of the Board, and also other quasi-judicial and judicial bodies such as the Federal Energy Regulatory Commission, the Federal Communications Commission, the Nuclear Regulatory Commission, and the courts. The Department is both the "ratepayer" advocate, and the "public" advocate, integrating both interests into a cohesive position before the Board.

Given the complexity of the issues, the dollars at stake, and, in the case of siting decisions, the impact on those near proposed structures, the role of the Public Advocate is an

extremely difficult one. Most positions that the Public Advocate takes on behalf of the Department, especially high profile positions, will have detractors. Frankly, as to ratepayer impacts, some feel we are too aggressive, and some feel we do not go far enough in fulfilling the ratepayer versus public advocate role. As the number of regulatory proceedings have increased in the past several years the number of concerns expressed about the Department's positions have increased as well. In this context, in 2015, the Vermont General Assembly passed Act 56, which included the following provision:

Sec. 21b. REPORT; RATEPAYER ADVOCATE OFFICES

(a) Report. The Commissioner of Public Service shall evaluate the pros and cons of various forms of ratepayer advocate offices and report on or before December 15, 2015, to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with any recommendations on how to improve the structure and effectiveness of the Division for Public Advocacy within the Department of Public Service.

(b) Process. In order to receive information relevant to this evaluation, and prior to submit the report, the Commissioner shall:
(1) solicit input from consumer advocates, utilities, and utility regulation experts; and (2) conduct at least two public hearings dedicated to the subject of this section.

(c) Scope. The Commissioner shall study various forms of ratepayer advocacy offices and assess them in terms of: (1) their structure and reporting requirements; (2) whether and how their independence is ensured through structure and budget; (3) their effectiveness in representing residential ratepayers in regulatory proceedings; and (4) how ratepayer benefits, specifically rate savings, vary with differing ratepayer advocate structures.

In order to prepare this report, Department employees including the Commissioner and Deputy Commissioner conducted four public hearings in diverse geographical areas of the State, and a staff member in the consumer affairs division and the former staff ratepayer advocate in Maine conducted interviews (of approximately one hour each) with 25 experts who were notable

consumer advocates, utility executives, and experts in utility regulation. In addition, the Department gathered survey information prepared in large part by the Office of Consumer Counsel of Colorado.

Beyond the procedural requirements set out above, in response to several requests made by members of the public, the Department, with the consent of key legislators, decided to publicly release a draft of this Report in order to allow members of the public to submit comments in response to the draft report. Finally, all public comments received in writing and copies of the transcripts from the four public hearings were made publicly available on the Department's website as of December 9, 2015.

This is not the first time the Department has been asked to assess its effective representation of the "public interest." This report also builds on a similar 1987 report, prepared in response to the Joint Legislative Council, which was submitted by the Department and introduced as follows:

This report is prepared at the request of the Vermont Legislative Council to assist the Joint Legislative Committee on Public Power, Public Advocacy and Basic Residential Rates created by 1987 Vt. Laws No. 65 (better known as "S.130"). Among other tasks, S.130 charges the joint Legislative Committee to "review and assess the role of the director of public advocacy." Section 8(c). This report considers in turn the organization of the public advocate's office; the mission and work it performs; the resources, strengths and weaknesses of the office; and finally explains how DPS handles a utility matter before the Public Service Board.¹

The 1987 Report continues to represent a fairly accurate description of the current public advocacy function of the Department, although that function has evolved in some ways during the last 28 years.

The 1987 Report's conclusion noted that:

[S]tates' organizations, funding, duties and staffing vary so much that generalization is not very useful. The staff of the Colorado Public Utilities

¹ Excerpt of Introduction, Report of the Vermont PSD to the Vermont Legislative Council, September, 1987.

Commission is conducting a survey of state public advocates which should soon be available.²

For this Report, we obtained that survey by the Colorado Consumer Advocate (only completed in 2013) with some updates by the Department for purposes of this Report (attached hereto).³ While we agree with the conclusion of the Department's 1987 Report that a multitude of unverifiable factors would frustrate any attempt to make direct quantitative or qualitative comparisons between ratepayer advocacy offices, or to conclude that one structure inherently leads to better outcomes than another, the survey attached to this Report nonetheless provides a good overview of the structural variations that states have created for purposes of representation of the public or ratepayers in the area of utility and telecommunications services regulation.

In this report we first provide an overview of the Department and the Vermont regulatory context, we then describe other structures for ratepayer advocates and compare the pros and cons of various structures. Finally, we summarize and respond to the public input that we received in preparing the report.

II. Structure of Utility Public Advocacy in Vermont

The structure of the ratepayer advocacy function in Vermont may be one of the more unusual and, we would argue, most beneficial to the public of the various structures found in the 42 states that authorize such advocacy offices. Although a ratepayer advocacy division within a larger agency is not unusual in the U.S., that scenario is typically in the context of a ratepayer advocate division within a state attorney general's office (the structure in approximately 17 states, as shown on attached exhibits).

² 1987 PSD Report at 3.

³ Including some additional updates from both the Department and the Colorado Office of Consumer Counsel.

The Public Service Board and the Department of Public Service were each created as a result of the restructuring of the old Public Service Commission, by means of legislation that became effective in 1981. Although both agencies were created from the same parent organization, the Board and the Department necessarily have distinct functions that were codified by the restructuring.

The three-member Board is a quasi-judicial body whose primary function is to decide cases brought to it by utilities, merchant generators, the Department, and ratepayers. The Board members are appointed by the Governor, after being reviewed by the judicial nominating board, and serve staggered, six-year terms. The Board members must be confirmed by the senate and can only be removed for cause.⁴

The Department acts as the public advocate (including “ratepayer advocate”) and planning office. The Commissioner is appointed by the Governor with the advice and consent of the Senate. The directors of all divisions,⁵ including the Public Advocacy Division, report to the Commissioner. The Department is an automatic statutory party in Board proceedings, and is represented by the Public Advocate, with staff in the remaining divisions typically both informing the appropriate position to take and acting as witnesses for the Department in these proceedings.⁶ Separate from the Public Advocacy Division, the energy and telecommunications planning divisions each have statutory responsibilities to develop forward- looking plans to address energy and telecommunications requirements of Vermont, with the Planning and Energy Resources Division also acting as the State Energy Office. Almost every state has a public

⁴ 30 V.S.A. § 3.

⁵ The divisions include: Planning and Energy Resources Division, Engineering Division, Telecommunications and Connectivity Division, Finance and Economics Division, Consumer Affairs and Public Information Division, Regional Policy, and Administrative Services.

⁶ The Department also has the authority to contract with outside consultants to provide specialized services, such as aesthetics reviews in siting cases.

advocate, state energy office, and telecommunications planning agency. Vermont is unique in that all these functions are housed within the same entity. In many states the planning offices have attorneys that appear in public utility commission proceedings, separate and distinct from that state's public advocate, a redundancy one needs to consider if the current structure is deemed undesirable.

The public advocacy division is the entity within the Department that makes the necessary arguments before the Board. For example, within one of the few sections of Title 30 that specifically mentions the public advocacy division, there is language that "in cases requiring hearings by the Board, the Department, through the Director for Public Advocacy, shall represent the interests of the people of the State." There is no language in Title 30 that contemplates that the public advocacy division, as opposed to the Department, should take specific positions. Also, as is clear from this citation, the public advocacy division is to represent the interests of the people, and not the ratepayers of the state exclusively.⁷ The full text of 30 V.S.A. § 2 is included in Appendix F – Compilation of Statutory Goals, as it provides the Department's statutory responsibilities.

This suggests a legislative intent to have one voice – the Department – speaking on behalf of the public, and provides a benefit in that the planning offices and the public advocate collaborate to form positions before the Board and other tribunals. It is a mission and responsibility we take most seriously. This collaboration results in real cost savings to ratepayers and a more natural inclination to develop moderated policies where planning goals are

⁷ Also "the Department may intervene, appear, and participate in" federal administrative proceedings.⁷ Additionally, Section 2 of Title 30 specifies that the Department "shall represent the consuming public" in matters involving the decommissioning fund for Vermont Yankee, and shall advance positions consistent with Vermont statutes "in all forums affecting policy and decision making for the New England region's electric system."⁷

tempered by cost considerations and rate considerations are informed by policy and planning goals.

Given the unique combination of functions and subject matter experts housed within the PSD, these other divisions within the Department contribute synergistically to the effectiveness of the ratepayer advocacy function, but it can also lead to the appearance of potential conflicts between the purposes of those other functions and the ratepayer advocacy function. However, based on our experience and discussions with the many experts who provided input for this Report, there is no indication that the current structure of the Department creates any real or inherent conflicts of interest. In fact, a widely held view among experts is that it is appropriate that the public advocacy division take positions that are consistent with longer-term Department policies found in its long-term planning documents and other statutory policies designated for supervision and implementation by the Department. While it is theoretically possible that conflicts could arise from time to time as a result of the variety of official functions that are simultaneously housed within the Department, none of the interviewees were able or willing to assert any specific evidence or examples of that potential for conflict.

Ratepayer Advocate or Public Advocate?

One criticism directed at the PSD is that it functions too much as a “public advocate” and not enough as a “ratepayer advocate.” In this view, ratepayer interests are confined to obtaining the lowest-cost, most reliable utility service without regard to other public-policy concerns (e.g. environmental or policy matters). This criticism fails to recognize the statutes that direct the PSD, and takes a narrow and short-sighted view of ratepayers’ actual interests.

The statutes directing the Department’s work are found in Title 30. Section 2(a) directs the PSD to “supervise and direct the execution of all laws” relating to public service entities. Section 2(a)(6) directs PSD to represent “the **interests of the consuming public** in proceedings

to change rate[s]” Section 2(b) broadens that focus, stating that “In cases requiring hearings by the Board, the Department, through the Director for Public Advocacy, shall represent the **interests of the people of the State**, unless otherwise specified by law.” In proceedings and forums affecting the regional grid, the PSD is directed to “advance positions that are consistent with the statutory policies and goals set forth in 10 V.S.A. §§ 578, 580, and 581 and sections 202a, 8001, 8004, and 8005 of this title.” 30 V.S.A. § 2(g). The policies and goals of the statutes cited in § 2(g) apply to more than just the regional context, and are not confined to an interest in the lowest possible rates. For example, section 202a articulates “State Energy Policy” and provides that:

It is the general policy of the state of Vermont:

(1) To assure, to the greatest extent practicable, that Vermont can meet its energy service needs in a manner that is adequate, reliable, secure and sustainable; that assures affordability and encourages the state's economic vitality, the efficient use of energy resources and cost effective demand side management; and that is environmentally sound.

(2) To identify and evaluate on an ongoing basis, resources that will meet Vermont's energy service needs in accordance with the principles of least cost integrated planning; including efficiency, conservation and load management alternatives, wise use of renewable resources and environmentally sound energy supply.

Similarly, §§ 8001 *et seq* speak to efficient use of resources, protecting air and water quality, reducing global climate change, and securing a diverse energy supply – as well as benefitting ratepayers. Sections 8004 and 8005 relate to the Renewable Energy Standard, which requires investments to accomplish a number of stated purposes with the explicit overall goal of securing the economic *and* environmental benefits of renewable energy generation. The cited sections of Title 10 relate to the State’s goals with respect to greenhouse-gas reduction, renewable energy, and the efficiency of Vermont’s housing stock.

The statutory direction to the Department is clear: the strictly pecuniary interests of ratepayers are unquestionably important, but they are to be balanced with other goals – goals recognizing that ratepayers are not monoliths interested in only the lowest possible rate, but in the main are people who have shown themselves to value their environment, and who have a strong interest in leaving a healthy, livable energy and environmental objectives for future generation ratepayers.

The Department’s over-arching goal can be summarized as the pursuit of *reliable, least-cost* utility service. The term “least-cost” may suggest a focus on the lowest possible rates right now. The statutes provide a more comprehensive and nuanced definition that guides the Department, Board, and utilities. Electric and gas utilities are required to prepare and implement a “least cost integrated plan,” defined in 30 V.S.A. § 218c as:

- (a)(1) A "least cost integrated plan" for a regulated electric or gas utility is a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission, and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs. Economic costs shall be assessed with due regard to:
 - (A) The greenhouse gas inventory developed under the provisions of 10 V.S.A. § 582;
 - (B) The State's progress in meeting its greenhouse gas reduction goals;
 - (C) The value of the financial risks associated with greenhouse gas emissions from various power sources; and
 - (D) Consistency with section 8001 (renewable energy goals) of this title.

This statute explicitly requires the Department,⁸ as well as the Board, to consider not only monetary but also economic and environmental costs and safety, and to do so on a life-cycle basis. This will not result in the lowest rates today, a fact of which the General Assembly was

⁸ The Department of Public Service is affirmatively instructed to “supervise and direct” the execution of the statutes cited above as well as many others in Title 30.

undoubtedly aware. For example, energy efficiency (a/k/a demand-side management) by its nature tends to require up-front investment that may incur costs, but can lower bills both in the short term and in the longer term as transmission upgrades, new power plants, and other costs associated with growing loads are avoided.

Finally, it may be of interest to note that there is an opportunity for the Board to appoint an independent counsel to represent the public or the state in Board proceedings⁹. In 2004, in response to a request to appoint an independent counsel the Board set forth two scenarios that would justify such an action: 1) a conflict appears to exist between the Department's role as a public advocate and its role pursuant to a separate statutory requirement, or (2) when the Department is not able to commit the resources to adequately review and present a case.¹⁰ Vermont statutes specifically require the Board to appoint independent counsel where the Department is acting as a seller or distributor of electric energy.¹¹ However, even outside such limited circumstances, the Board “may, if it determines that the public interest would be served, request the Attorney General or a member of the Vermont Bar to represent the public or the State”¹² in Board proceedings. As far as the Department is able to ascertain, in the history of the Department as it has existed since 1981, the Board has never appointed an independent counsel in this more general circumstance.

⁹ 30 V.S.A. §212(e) The board shall request the appearance of the attorney general or shall appoint a member of the Vermont bar to represent the interests of the public or the state in any hearings before the board under sections 212a, 212c or 212d of this title regarding either:

¹⁰ See Petition of Vermont Electric Power Co., Inc., Docket No, 6860, Order of 4/8/04 (Northwest Reliability Project Case) (rejecting New Haven's request for the appointment of independent counsel).

¹¹ See, 30 V.S.A. § 212e.

¹² 30 V.S.A. §2(b).

III. Structures of Utility Public Advocacy Offices in the United States

The primary scope of this report is to review various public advocacy structures and provide an assessment of: structure and reporting requirements, independence, effectiveness, and how savings to ratepayers vary according to structure. Attached to this Report is a spreadsheet and associated charts that display some key characteristics of utility consumer advocate offices in each state where one or more exist.

In this Report, the term “public advocate” will be used generically to refer to the public advocacy function of the Vermont PSD as well as to the roughly equivalent function in other states that designate a utility consumer advocate. In other states, a similar public advocate may be designated as: (office of) “consumer advocate,” “ratepayer advocate,” “public advocate,” “consumer counsel,” “rate counsel,” “public counsel” or “citizens utility board.” Any of these may be constituted as an independent agency or as a division of a larger agency, such as being a division of a state’s office of attorney general. One important distinction between such agencies is that most Public Advocates are not involved in siting of energy and telecommunications infrastructure, as is the Vermont Public Advocate.

The key variable characteristics of state utility consumer advocate offices include:

- The method of appointment or election of the Public Advocate
- The term, if any, of the head of the office
- The location or division of state government where the office is administratively attached.
- The stability, reliability, and magnitude of annual budgets
- The scope of jurisdiction granted to the office
- The class(es) of consumers represented by the office

Unless otherwise noted, ratepayer advocate offices have the following common attributes:

- Consumers¹³ are represented, as a class, in matters involving the price and quality of service delivery of electricity, natural gas, water,¹⁴ and telecommunications services¹⁵ before a state commission, federal agencies (chiefly, the Federal Energy Regulatory Commission and the Federal Communications Commission), and courts of law.¹⁶
- Authority to appeal decisions of the applicable regulatory body to a court of law.
- Special right to party status before the applicable state commission.
- Separate staff, budget, and mission from the state commission.

In addition to consumer advocates, almost all states have some sort of planning office for energy and telecommunications. In all other states, this planning office is housed in a separate agency from the Public Advocate, and in many states these offices also participate in cases before the state public utility commission.

The following is a brief summary of the standard models of utility consumer advocacy offices in the U.S.

A. “Independent” State Agency

There are approximately 21 states that have created what may be thought of as “independent state agencies” whose sole purpose is to represent utility ratepayers before state public utilities commissions, federal agencies such as the Federal Energy Regulatory Commission and the Federal Communications Commission, as well as courts of law. Generally, these independent agencies are nevertheless administratively attached to a larger agency of state

¹³ Some states limit representation to the residential class of consumers, or require prioritization of the interests of residential or low-income consumers.

¹⁴ Some states have deregulated municipally owned and managed water utilities, or all water utilities.

¹⁵ Several states have partially or fully deregulated telecommunications services, based on a finding of sufficient competition.

¹⁶ Some state public utilities commissions also regulate certain transportation services, sewer service, and steam service.

government, although the agency is not necessarily meant to be supervised by the department to which it is administratively attached. For example, the Maine Public Advocate is housed within the relatively small Executive Department which is headed by the governor of the State. Its statutory mission is to directly represent the “using and consuming public” as opposed to the interests of the governor or the State Energy Office which is also housed within the governor’s Executive Department. The Maine Public Advocate has a four-year term, staggered with the Governor’s term, and may only be removed for cause during that term. The Maine Public Advocate is appointed by the Governor and must be confirmed by the Maine Senate.

In New Hampshire, the Office of Consumer Advocate also has a four-year term and is appointed by the Governor and Executive Council, and is administratively attached to the Public Utilities Commission.

B. Attorneys General

In approximately 17 states, the ratepayer advocacy function resides within a division of the state attorney general or department of justice. In some states, the role of the attorney general is mostly limited to appointing the ratepayer advocate or the director of the division that oversees the ratepayer advocacy function. In other states, especially in states with a small staff within the attorney general’s office, there may not be a dedicated ratepayer division but rather, a limited portfolio of regulatory cases in which the attorney general has chosen to intervene. In some jurisdictions, attorneys general have the authority to intervene in public utility commission cases even when there is a dedicated ratepayer advocate in the state.

The states of Washington and Massachusetts are examples of states with well-developed dedicated ratepayer advocacy divisions within the office of the state’s attorney general. In Pennsylvania, the Office of Consumer Advocate is an independent agency although the

Consumer Advocate is appointed by the State's Attorney General. The Massachusetts Attorney General is an elected position, as in Vermont, and the Attorney General appoints the head of the Energy Division (which acts as the ratepayer advocate) within the Attorney General's Office. Under this model, the legislature does not have a reviewing role in the appointment of the Public Advocate.

C. State Legislatures

In two states, Montana and Florida, the state legislature or committees thereof, appoint a public counsel to represent ratepayers in utility regulatory cases and serve at the pleasure of the relevant oversight committee.

D. Citizens Utility Boards (CUBs)

CUBs are private organizations that may receive funding from state government or from private sources, including funding through membership dues. In several states, the ratepayer advocacy function is officially performed by a Citizen Utility Board (CUB) which may be authorized by the Legislature to serve in that role even though they are usually private non-profit organizations. See, e.g., the mission of the Illinois CUB.¹⁷ In Illinois, the Attorney General also represents utility ratepayers through its Public Utilities Bureau. The governance of the CUB

¹⁷ Mission: When the **Illinois General Assembly created CUB** in 1983, it gave the nonprofit, nonpartisan organization a clear mission: to represent the interests of residential utility customers across the state. The statute directs CUB to carry out that mission by intervening in ratemaking proceedings before the Illinois Commerce Commission (ICC), in the courts and before other public bodies and by providing consumers with information and assistance regarding their utility companies.

Since its inception in 1984, CUB has been doing just that—working for lower rates and better service from the state's investor-owned electric, gas and telephone companies. Over the last 31 years, CUB has saved consumers more than \$20 billion by blocking rate hikes and winning consumer refunds. Click here to view the **CUB Act**, which created the Citizens Utility Board. The Purpose of this Act is to promote the health, welfare and prosperity of all the citizens of this State by ensuring effective and democratic representation of utility consumers... Such purpose shall be deemed a statewide interest and not a private or special concern.

Citizens Utility Board Act, Illinois Compiled Statutes, Section 220 Chapter 10.

may be a board that oversees the operation of the office, with publicly elected board members in some cases.

In addition to the CUB model, there are other independent private non-profit organizations that have served as effective ratepayer advocates. One such example is TURN – The Utility Reform Network – which is funded primarily through intervenor funding awards from the California Commission, granted at the end of cases where they made a substantial contribution to the record. The terms of the California intervenor funding program, including details of recent funding requests and awards, can be viewed at the California Commission’s online guide.¹⁸

In the majority of ratepayer advocate structures that we are familiar with, the agency is comprised primarily of attorneys and administrative support staff. Most ratepayer advocates have a small number of substantive expert staff contained within the agency, and rely heavily on outside consultants for expert review and testimony.

IV. Comparison of Department Structure with Alternative Structures

While the data attached to this report can provide an overview of how public advocacy offices are structured in other states, it is of limited value in measuring the effectiveness and ratepayer savings that derive from the various structures that are represented because there is a virtually unlimited number of other factors involved in making such assessments. It is reasonable to assume that larger offices with more resources are generally more effective than very small offices with small budgets. Moreover, the stability of budgets from year to year is a factor that can enhance effectiveness, efficiency and independence, beyond the simple size of the

¹⁸ <http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/>.

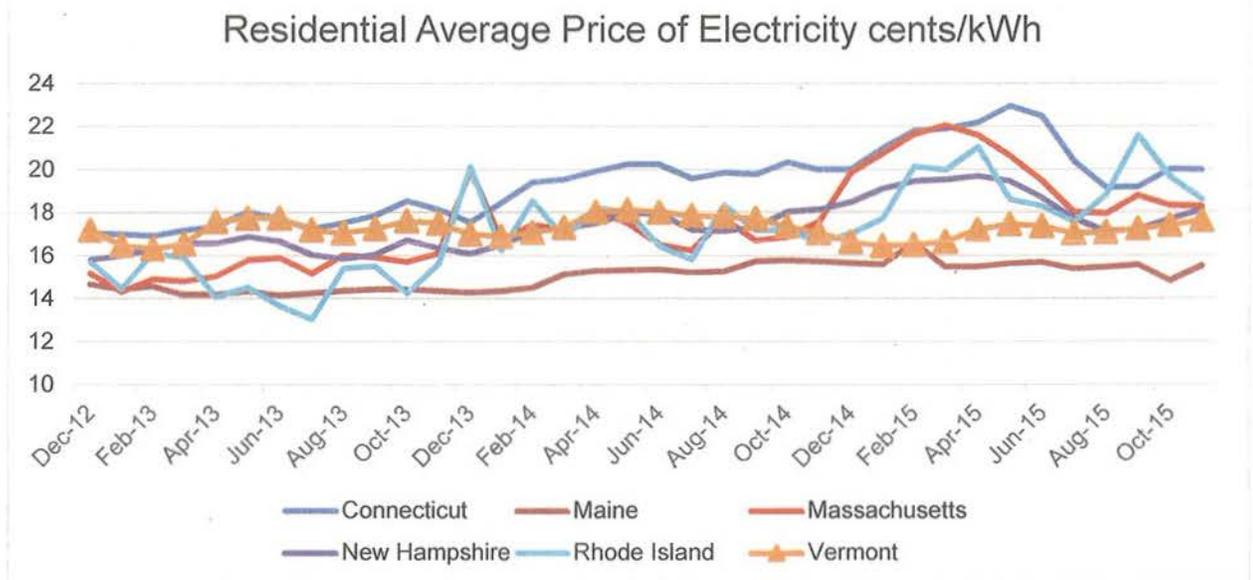
budget in a given year. The pros and cons of the various structures are addressed in the following section.

There is little or no empirical evidence that would allow a comparison of ratepayer savings or other consumer benefits across different types of offices based on their key structural characteristics. For example, the computation of ratepayer savings would not be possible, because it is not clear what portion of allowed rates or revenue requirements are directly attributable to the intervention of the Public Advocate, even where individual offices attempt to keep such records. Given the independent judgment of the public utility commission, the efforts of other parties to a rate case, and the optimism included in a utility's request for a rate increase, it would be unrealistic to assume that the ratepayer advocate alone is responsible for all positive changes to rates. Further, it can be difficult to compare individual utilities. A small rural utility composed primarily of residential ratepayers will have higher rate pressure than a large urban utility. State policy directives such as energy efficiency and renewable requirements will also impact rates.

A specific impediment to comparing the Department's function to other ratepayer advocates is that the Department, as explained above, has a larger role and is directed by existing statute to consider non-rate issues in developing and advocating its position. While we always consider the impacts of any project or rate review on rates, as with other states where the mission is broader than ratepayer impacts, we do not always advocate for the lowest possible rates, consistent with our statutory responsibilities.

For purposes of some form of comparison on effectiveness, we include below a chart of the average price of electricity for ratepayers in New England, by state. This is not a measure of rates but instead the total price paid by residential ratepayers. The purpose of the graph is to note that electricity prices in Vermont are generally stable and also are not consistently higher than

prices paid by other New England residents. In fact, over the last 4 years we have achieved prices on average that are at or below the rate of inflation.



We have learned that stability matters to the consuming public, regardless of class, but that it is particularly important to residential, fixed income citizens, and small businesses. Though difficult to measure, the single most important characteristic affecting the quality of consumer representation is likely to be embodied in the staff who lead the office and those individual advocates who represent the public in regulatory proceedings.

As stated previously, there is no single structure that is clearly superior to others; each involves tradeoffs of different attributes. For example, independence from political pressure, accountability to consumers, effectiveness of efforts, cost to ratepayers, and administrative efficiency are all worthwhile goals, but there is no single structure that can optimize all of these principles simultaneously. Each structure has different strengths and weaknesses.

Below, we examine the potential pros and cons of different structures. One important assumption used in undertaking this analysis if there were to be a separate office of ratepayer

advocacy, much of the department's mission would remain, including its appearance before the Board to advance energy office policy positions separately from the Public Advocate.

A. Existing Vermont Structure

As discussed above, the Public Advocate is appointed by the Commissioner of the Department. The Commissioner, in turn, serves at the pleasure of the Governor and must be confirmed by the Senate. The Public Advocate's client, by statute, is the citizens of Vermont; the Commissioner functions as the representative of that client for purposes of formulating positions and directing the activities of the Public Advocate.¹⁹ The concern expressed with this model is that there is insufficient independence, as it is believed the Governor can influence the Commissioner and therefore the Public Advocate. There is, however, a significant amount of accountability, as the Commissioner could remove a Public Advocate whose actions are clearly against the public's interests. Additionally, the Senate has the potential for significant oversight of the Commissioner through the confirmation process and periodic testimony before the relevant committees of jurisdiction in both the House and the Senate. Of course, in Vermont, the Governor's term is two years, making him or her accountable to the public on a very consistent basis. Consequently, there is frequent opportunity for accountability through the political process for both the Commissioner and the Governor.

As discussed below, in this review we note there is a tension in the joint goals of "independence" and "accountability." While our structure is not as independent as some might wish, we are very accountable to the Legislature, Governor and the people of the state.

¹⁹ As an attorney representing a client the Public Advocate does not determine what positions to take. That function is assigned to the Department as a whole (with the Commissioner making the final determination), which participates in PSB matters "*through* the Director for Public Advocacy" 30 V.S.A. sec. 2(b) (emphasis added).

This structure also has the benefit of decreased costs and increased administrative efficiency compared to alternative models, as the planning office and public advocate are housed together and appear as one entity in front of the Board and other tribunals.

B. Independently Appointed Public Advocate

An independently appointed public advocate, with a set term of years, appointed by the Governor and confirmed by the Senate, would perhaps have a higher degree of independence. Such independence also reduces accountability – for example, if a public advocate took the position that climate change is not a priority, and therefore any efficiency and renewable programs are not maximizing ratepayer benefits, that Public Advocate could continue to make those arguments for the duration of the term. Accountability is forfeited. Hopefully, the vetting that would take place during the Public Advocate’s senate confirmation process would address such issues but there is always the possibility that an appointed person will take positions that did not reflect the goals of the legislature, governor or citizenry.

In addition, while the Public Advocate could continue to work closely with the Department, it is likely that the two entities would, at least occasionally, take different positions on issues. Consequently, the Public Advocate would utilize expert staff independent from the Department, and the Department would utilize lawyer’s independent from the Public Advocate. This would result in additional costs, both monetary for ratepayers, and through reduced administrative efficiency. These costs are necessarily assumed by ratepayers - counter to the desired effective administrative regulatory role.

C. Public Advocate Housed in the Attorney General’s Office

Placing the Public Advocate under the Attorney General have a different elected official other than the Governor ultimately overseeing the Public Advocate. In states with this structure,

there does not appear to be legislative approval of the Public Advocate, which limits accountability, although a statutory change could include legislative oversight of the Attorney General's appointment of a Public Advocate. This structure does provide accountability in that a public advocate could be removed if the positions being taken were clearly against the public interest. This structure suffers from the same cost and administrative efficiency issues as the independent public advocate structure explained above.

D. Direct Legislative Oversight of Public Advocate

In two states, the legislature has direct oversight of the Public Advocate, who serves at the pleasure of the relevant legislative committee. This structure does provide accountability in that a Public Advocate could be removed if the positions being taken were clearly against the public interest. In addition to the cost and administrative efficiency issues explained above, however, there is some concern with the level of accountability as it would lack the typical checks and balances that occur when a member of the executive branch appoints a position that requires confirmation by the Senate, and ultimately, there is also a "separation of powers" issue that would need to be addressed.

E. Hybrid Approach

One potential structure that was considered during the development of this report, and ultimately is not proposed, is the idea of keeping the Public Advocate within the Department but providing additional independence to the Public Advocate, through a set term of years and/or a requirement that the Public Advocate could not be removed without cause. The reason that this structure is not proposed is that the practical effect is similar to the structure of an independent public advocate housed in its own agency. As noted above, in most states, the executive branch has the ability to advocate for legislatively supported policies in administrative tribunals as a

means of expressing legitimate public interest. Instituting a public advocate completely independent of the administration would curtail this ability and, as with other more “independent” models, one wonders whose “public interest” the advocate would be advocating and how that would be determined. Further, internal to the Department, it would be problematic for the same expert staff to remain available for both the independent Public Advocate and the Department in reviewing petitions and providing expert testimony. Consequently, simply providing greater independence to the Public Advocate within the Department would have the same practical effect, in terms of additional cost and less administrative efficiency, of removing the Public Advocate from the Department. This approach also maintains the accountability issues addressed in the description of the Independent Public Advocate structure.

As can be seen, there is no single model that is clearly better than any other. The tradeoffs explained above should be explicitly considered and dealt with in the context of any possible changes to the structure of the Vermont Public Advocate’s office.

V. Public Concerns about the Department’s Public Advocacy Function and the Department’s Response

The Department heard concerns expressed by many members of the public at the four public hearings conducted for purposes of this Report, concerns expressed in many written comments sent to the Department for purposes of this Report, and concerns that were expressed by a few of the interviewees who contributed to this effort. The following is an attempt to summarize and address the most frequently-expressed concerns, but full comments are available as appendices to this report and on our website.

A. Political Influence

The most common critique of the Department's public advocacy function was that its positions sometimes appear to be politically determined. That view suggests that the public advocacy function in Vermont should be carried out in a manner that is more independent of the Department Commissioner and the Governor who appoints him or her, or that the political position taken is NOT, by definition, in the public interest. In this review, the concept of "independence" that is discussed throughout this reports came to light. We note it is not a statutory directive and never has been, but the concerns are so commonly raised it is important that we fairly discuss and address them.

Basic integrity of the regulatory process depends upon the Public Advocate remaining independent of the tribunal (the Public Service Board). That was accomplished when the Department was created, effective in 1981, and the integrity of that separation has been maintained through the present day. There is never any contact between department staff and the Public Service Board staff or commissioners on matters of substance with an open docket or that are likely to come before the board.

The independence currently sought by the commenting parties is independence from other officials in state government, including the Governor, and even the Commissioner of the Department itself. The statutory scheme that creates the public advocacy function of the Department is not one that evidences any legislative intent to provide the Public Advocate with independence from the rest of state government, the Governor, or the Department's Commissioner – that is, the elected or appointed officials. To the contrary, given that the Public Advocate can be hired or terminated by the Commissioner, who, in turn, serves at the pleasure of the governor, combined with the inclusion of the public advocacy division within a broader agency that is obligated to follow, and promote state energy and telecommunications policies,

there is a strong suggestion that the original intent of the statutory scheme did not include independence of the Public Advocate in the fashion promoted by some quite on purpose. Instead, the accountability of the Department is assured through the election of the Governor by the people of Vermont, with the Governor then selecting a Commissioner that oversees both the planning offices and the Public Advocate and represents the interests of the people of the State.

Further, while the Commissioner of the Department “serves at the pleasure of the Governor,” the Commissioner is also “appointed by the Governor with the advice and consent of the Senate” for a two-year term.²⁰ Given the legislative oversight of the Commissioner, there is a significant amount of accountability over the Department, including the Public Advocate, built into the statute. As noted previously, other public advocate and ratepayer advocate structures have no role for the legislature whatsoever, or have a role that is limited to oversight only at the beginning of a public advocate’s term. A more independent role for the Public Advocate would have to be balanced with less accountability to the elective process.

It is also worth noting that the Department is one of several Executive Branch agencies that appears before the Board, each of which has an agency head appointed by the Governor and confirmed by the Senate. It is interesting to reflect on why there is an expectation by some for an independent voice on determining public or ratepayer interest positions in utility matters but not on natural resources, health, and other issues represented by Executive Branch agencies before the Board.

B. Consistency of Department position with that of the Regulated Utilities

Another significant area of criticism expressed at public hearings conducted for this Report is that the Department is too close or “cozy” with utilities. Some members of the public

²⁰ 30 V.S.A. § 1(b).

who provided input, went so far as to allege that the Department sometimes “advocates for utilities.” There is a perception by some that the proper role of the Department should usually be as a strident opponent of utility proposals, regardless of what they are. In rate cases, with few exceptions we are consistently oppositional to the utility.

There are times when the Department’s goals on behalf of the public will overlap with the agenda of a utility. This is more often the case with projects proposed to be undertaken by a utility. To the extent that a utility is proposing something that advances public policy, we believe that it is appropriate for the Department to work constructively with the utility on that issue. However, absent sufficient explanation by the Department as to why it is supporting a utility’s position, it can appear that the Department has not developed its own independent position and is simply supporting the utility without regard to the public’s interests.

This can particularly be the case when the Department enters into agreements with utilities, sometimes by means of memoranda of understandings (MOUs) – that are then submitted to the Board for approval. Settlements are a rational and efficient part of any judicial or regulatory adversarial process, and may, under appropriate circumstances, be in the best interests of ratepayers and the general public. The PSB has consistently encouraged settlement between parties, at least partly as a matter of judicial economy. The Board is free to reject any settlement proposal that comes before it. Moreover, settlements between some, but not all parties, that are submitted to the Board, remain subject to hearings wherein other parties may challenge the settlement and seek to influence the Board to reject them.

Despite the advantages that MOUs can provide, we explain in the recommendations section below that the changing nature of litigation before the PSB has caused the Department to re-visit its use of this settlement tool and to modify its use to better assure that, when the

Department enters into an MOU, there is sufficient transparency and accountability in the process and the reasoning is understood.

C. Role of Public Input in Formulating Department Position

Some public commenters pointed out that even when they make the effort to attend public hearings and communicate their views on current issues being addressed by the Department or by the Board, their opinions are not, in turn, represented in the Department's eventual recommendations to the Board. Some commenters urged the Department to directly solicit public opinion on important issues and represent those views more directly and forcefully.

Some also expressed frustration with the regulatory process because public input does not necessarily influence the Board, which relies on expert technical data and testimony, and the Department's assessment of the public interest is made irrespective of what the public indicates that it wants. For example, a member of the public who attended one of the four public hearings conducted in conjunction with this report stated the following with respect to the Vermont Gas System pipeline expansion:

At none of those events, whether official event or informal event, have the majority of the public speaking been in favor of the Vermont Gas pipeline. And yet each time that the Department of Public Service issues a report to the Public Service Board on this matter, it has invariably been in support of continuing with the pipeline.²¹

While we try to carefully consider and absorb the views contained in all communications from the public, and use public input to flesh out issues that must be addressed in a given case, our ultimate position on issues cannot reasonably be determined by either individual input or an informal poll based on a small number of self-selected persons who attend a hearing or send an

²¹ Shelburne Transcript at 31.

email.²² There is some merit to considering greater outreach to determine public interest and to inform our responses. However, if the Department's positions were to be informed by public polling, the poll would need to be statistically significant and ensure the inclusion of the views of all affected groups, including the vast body of customers whose interest may (or may not) be limited to the desire for safe, reliable service at just and reasonable rates. More fundamentally, based on the nature of the regulatory decisions of the Board, and the advocacy positions developed by the Department, such complex issues are usually not amenable to voting. As one expert stated in an interview, regulatory decisions "are not popularity contests."

As in most important decisions in life, regulatory decisions are a matter of tradeoffs and may produce winners and losers. Ultimately, the Department must use its judgment to weigh the tradeoffs and take a single position that best balances all interests concerned. Accordingly, taking a position with which some may disagree is not an indication that the tradeoffs – or concerns expressed by members of the public – were not weighed and considered by the Department. There is no feasible formulaic way, such as polling, that the Department can use to develop its positions on each issue that comes before the Board.

In taking a position, the Public Advocate must look at many factors, including statutory goals and the long-term interests of ratepayers related to the specific facts at issue in the case. There are certain starting assumptions that may be used; for example, in ratemaking proceedings, it may be assumed that lower rates are better for Vermont's local economy because lower rates mean that more dollars remain in the state as disposable income. However, the Department can also assume that the State's utility customers want to be assured of reliable service, i.e., customers want, and deserve to have, a reliable supply of electricity, which involves incurring

²² In Docket 7970 (VGS Addison Pipeline project) the PSB received complaints that supporters of the project had packed the public hearing with their employees. If the prevailing sentiment at a public hearing were to determine the Department's position, such posturing might become routine.

costs related to tree trimming and other maintenance activities, and willingness to expend money to restore outages quickly in the event of a storm or other service interruption. Additionally, there are statutory goals for increased renewables, as well as implementation of energy efficiency. These countervailing goals push against the idea that every position the Public Advocate takes should be to minimize rates in the short term.

More difficult decisions arise, for example, when a particular proposal pits a small number of affected local residents against statewide policy goals; in such cases, a small number of customers may be disproportionately affected by energy or telecommunications facilities that require certificates of public good (CPG) that are being proposed to: ensure reliable electric service, provide cell coverage to an unserved area, or to meet renewable goals set by the legislature. In such cases, the public good may well require that such facilities be constructed, even at the inconvenience of locally affected landowners. Longer-term benefits may be achieved by the Department's coordination of its public advocacy positions with long-term least cost planning that the Department undertakes on a regular basis.

The Legislature fairly recently raised the question of how the Department establishes its positions on issues and required a related report from the Department by July 1, 2014. In that Report of July 1, 2014, the Department stated:

There are a number of guideposts that inform the Department's judgments regarding the public good. These include state statutes, previous Board orders, comments received at public hearings, and public policies and goals developed within the executive branch. The Department's Comprehensive Energy Plan is an example of the integration of multiple sources of guidance, taken from dozens of meetings around the state and review and comment by stakeholder groups on multiple drafts, resulting in approximately 9000 public comments taken into consideration. In addition, there is a significant body of utility regulatory law developed over many decades and expressed in the rulings of many courts, including the U.S. Supreme Court, as well as in secondary sources such as treatises. These guideposts provide valuable direction on many issues, and, more importantly, set forth principles that guide decision-making on specific cases and

questions.²³ The Department regularly consults these sources in the course of its representation of the public.

The Department is charged with representing all of the consuming public, which includes many different classes of customers as well as a broad diversity of opinion and interests. In most cases before the Public Service Board, the interests of different customer classes (e.g. residential, commercial, industrial) are not in conflict.²⁴ All classes of customers have a fundamental shared interest in least-cost utility service.²⁵ In rate cases, where the utility's overall revenue requirement is determined, the interests of all consumers are fundamentally the same. Similarly, the interests of different customer classes do not generally differ in facility permitting cases under § 248.²⁶

The Department stands by the analysis that it offered in 2014.

Confusion regarding how to determine the public interest is understandable because the plain meaning of rather general statutory terms such as the “public interest,” the “consuming public,” “interests of the people of the State,” and “public good” can each be understood to represent the good that is in the mind of the beholder. Moreover, the statutes seem to provide slightly varying answers to the question of who is meant to be represented by the Department's Public Advocate, depending upon the nature of the proceeding.

In general, the applicable statute requires that:

(b) In cases requiring hearings by the Board, the Department, through the Director for Public Advocacy, shall represent the *interests of the people of the State*, unless otherwise specified by law. In any hearing, the Board may, if it determines that the

²³ The treatise perhaps most often cited is *Principles of Public Utility Rates* by James C. Bonbright. A summary presentation of those principles and their application to ratemaking can be found at <http://www.naruc.org/International/Documents/Tarif%20Development%20II%20Rate%20Design%20final%20draft%20ver%201%200.pdf>. [footnote taken from original]

²⁴ However, in cases that address “rate design”, there are sometimes controversies about the portion of the overall revenue requirement that each customer class must contribute to. Based upon a relatively recent statutory change, the Department must provide heightened focus on customer classes that are not usually otherwise represented.

²⁵ “Least-cost” in this context does not mean simply the cheapest rates, but has the meaning given in 30 V.S.A. § 218c – i.e. after considering safety, “the lowest present value life cycle cost, including environmental and economic costs . . .” While this does not necessarily translate to lowest rates, if properly implemented it should result in the lowest utility bills. [footnote taken from original]

²⁶ Act 91 Report to the General Assembly on Consumer Representation, submitted by the Public Service Department, July 1, 2014. Report available at <http://legislature.vermont.gov/assets/Documents/Reports/301653.PDF>.

public interest would be served, request the Attorney General or a member of the Vermont Bar to represent the public or the State.²⁷

In addition, the Department may intervene, appear, and participate in Federal Energy Regulatory Commission proceedings, Federal Communications Commission proceedings, or other federal administrative proceedings on behalf of the Vermont public, such as at the Nuclear Regulatory Commission (NRC).²⁸ However, in proceedings that affect rates, the statutory standard is that the Department represents the “interests of the consuming public.” Therefore, the Department’s Public Advocacy attorneys must observe a slightly different focus of representation in rate-setting cases as opposed to other types of cases.

More recently, there has been a slight evolution of the focus of the Department’s public advocacy function. For example, pursuant to the later addition of Title 30 section 2(f), the intended beneficiary of the Public Advocate’s work became somewhat narrower:

(f) In performing its duties under this section, the Department shall give heightened consideration to the interests of ratepayer classes who are not independently represented parties in proceedings before the Board, including residential, low-income, and small business consumers, as well as other consumers whose interests might otherwise not be adequately represented but for the Department's advocacy.²⁹

However, the Department has also been directed by statute to give consideration to manufacturing and business interests in establishing energy policy.³⁰

To give effect to the policies of section 202a of this title to provide reliable and affordable energy and assure the State's economic vitality, it is critical to retain and recruit manufacturing and other businesses and to consider the impact on manufacturing and other businesses when issuing orders, adopting rules, and making other decisions affecting the cost and reliability of electricity and other fuels. Implementation of the State's energy policy should:

(1) Encourage recruitment and retention of employers providing high-quality jobs and related economic investment and support the State's economic welfare; and

²⁷ 30 V.S.A. §2(b) (emphasis added)

²⁸ Id.

²⁹ 30 V.S.A. § 2(f).

³⁰ 30 V.S.A. § 218e.

(2) Appropriately balance the objectives of this section with the other policy goals and criteria established in this title. (Added 2013, No. 199 (Adj. Sess.), § 12.)

While representing the “public interest” may generally be an apt way to describe the Department’s goal in nearly all cases, when a proceeding may result in a change of rates, the somewhat narrower directive requires the Department to represent the general body of customers (the “consuming public”) in their capacity as ratepayers. In cases that do not affect the level of rates, the statutory mandate is for the Department to represent the “interests of the people of the State,” the “public good,” or “the general good of the State” depending on the applicable statute. Those standards leave substantial room for judgment with respect to the appropriate position for the Department to take in any particular proceeding. For example, the Department is continually involved in proceedings under 30 V.S.A. § 248 where the PSB must find that a proposal for acquisition of new gas or electric purchases or to construct related facilities “promotes the general good of the state” in order to grant the petitioner a “Certificate of Public Good.” Such standards require the PSD to make judgments about what is or is not in the general good of the state or what serves the public good, and to advocate accordingly. Quite often, taking a position in those cases is a product of weighing benefits and harms and considering different interests among affected members of the public. Therefore, given the range of positions that may be reasonably consistent with such broad standards after balancing many factors and diverse interests among the public, there is an inherent need for judgment in the formulation of the Department’s public advocacy positions. One former Board Chairman cited the benefits of having these disparate considerations weighed by one entity – the Department – and presented to the Board as a single distilled position that took the tradeoffs into account before developing that position.

VI. Comments on Draft January 15, 2016 Report

Windham Regional Commission and the Brattleboro Planning Director filed comments regarding the PSB's Section 248 process and the problems that regions and towns encounter in trying to meaningfully participate in the PSB process. The WRC states that "There would be considerable benefit to both the PSD and the legislature to note in this report that the solution to the problem of expecting the PAD [Public Advocacy Division] to facilitate access to PSB processes most likely belongs with the Public Service Board rather than the Public Service Department." The WRC requests that the PSD reiterate the Energy Generation Siting Policy Commission's recommendation that "The PSB shall hire a Case Manager to provide guidance on all aspects of the siting application process to all parties." In contrast, Brattleboro states that "In recognition of the cost and complexity of the PSB's arcane procedures the PAD should facilitate municipal participation in CPG dockets."

Additionally, comments were received from AARP and two individuals with electric utility experience.

AARP states that "one of the Department's primary problems is that it sees its mission as being focused primarily on promoting the 'public good' rather than 'ratepayer interests,' particularly residential and small commercial customer interests." Further, AARP asserts

The Department does not recognize that advocating for ratepayer interests requires it to pursue policies that result in the lowest-cost, most reliable utility service possible, not policies that balance interests between regulated utilities and captive ratepayers. A ratepayer advocate is not a neutral arbiter of fact nor of the "public good."

The two individuals also expressed concern with the report and contended that the state's focus on renewable energy has increased costs for ratepayers and that the Department should act as a ratepayer advocate and not actively support these policies. They also made comments that

there is quantifiable data available, such as return on equity and allowed rate increases vs. requested rate increases that can provide a means of determining whether the Department is adequately representing ratepayers. The comments also raise concerns about the general tenor of the draft report and whether it adequately captures the concerns raised by members of the public.

Response

The Department is aware of the concerns that have been raised regarding the accessibility of the PSB siting process and was heavily involved in the Energy Generation Siting Policy Commission. As noted in this report, the participation of the Department in siting procedures is unusual compared to the regulatory structures in other states. In previous years, the PAD provided some informal assistance to parties during Section 248 proceeding. However, over the past five years the number of Section 248 cases has increased exponentially and the public advocate staff have insufficient resources to continue to provide such assistance. The Department stands by the recommendations of the Energy Generation Policy Siting Commission] and will continue to participate in legislative discussions on improving the siting process, including support for positions at the Board that can assist the public with understanding and participating in the PSB process.

With respect to AARP's statements that the Department does not understand its mission, we note that AARP's representation of how the Department should advocate is based on what it wants the Department to do, rather than the plain language of the statutes that provide direction to the Department. As discussed earlier in this report, the statutory language establishing the Department and the Public Advocate Division states: "In cases requiring hearings by the Board, the Department, through the Director for Public Advocacy, shall represent the interests of the

people of the State, unless otherwise specified by law.”³¹ Nowhere in existing statute is there a directive to the Department or Public Advocate to push for the lowest rates possible, irrespective of the several energy and telecommunications policies established by the Vermont General Assembly. In addition, it is in consumers’ interests to be served by financially healthy utilities, and consideration of that as well as of a utility’s voluntary pursuit of state planning goals is appropriate for consideration by the Department. We think we both understand and are faithful to our mission and responsibilities, and respectfully reject AARP’s simplistic description of our role. Of course, if the legislature disagrees with our interpretation and the complexity of our evaluation as outlined in this report and those that have come before, it is in the position to change that focus should it wish.

With respect to the comments by the two individuals, we do not agree that detailed comparisons of quantitative savings can be made, as there are too many factors that can influence the analysis.

VII. Recommendations

While we do not recommend specific structural changes, we do believe that internal changes could be implemented to better address the concerns we’ve heard, and provide greater transparency to the public of why the Department takes specific positions. We list below some potential options to achieve this goal and specifically invite comment on these proposals. One consideration is that some of the proposed changes may take additional resources, which are in short supply; accordingly, these proposals are preliminary and dependent on further discussion both internally and externally.

³¹ 30 V.S.A. § 2(b).

We believe that there are two root causes leading to the concerns expressed leading to the requirement for this report: The first is that many people are unhappy with the positions that the Department takes. Given the stakes involved in almost all proceedings the Department participates in, this will always occur. This is not to dismiss these concerns but to acknowledge that there is no mechanism that will fully address this concern; the second root cause appears to be insufficient transparency in the rationale for why the Department has taken a specific position in any given case. This perceived lack of transparency not only prevents members of the public from understanding the rationale for the positions taken by the Department, but also makes it difficult for the public to review the consistency of the Department's positions. It is understandable that under such circumstances, some believe the Department fails to listen to THEM, and so must be listening instead to others – be it the utility, Governor or whomever has a position contrary to their own. This leads directly to the call for “independence” we heard about through this review. Below, we provide some potential mechanisms to help address these issues.

A. Annual Public Report on Advocacy Positions

Given the somewhat competing statutory goals (e.g., low rates, strong economy, increased renewables, adequate reliability), it is easy for any party to point to a specific statute and state that the Department is not giving the goal sufficient weight. In order to address this, the Department could provide an annual report that sets forth the statutory goals and how the Department tries to balance these goals. This could serve as a “roadmap” for the Department's general position on issues, while noting that individual cases each present specific circumstances that must be addressed; however, the public would be aware of the Department's general approach in reaching a given decision and why it took that course.

The report could also be somewhat retrospective and summarize the positions taken in prior cases as well as specific accomplishments achieved, which might help explain the specific cases that led us to this discussion. The Department could also receive feedback on a draft of the report before finalizing it, with a public hearing and opportunity for written comments that would allow public input. The purpose would be to provide transparency regarding the positions taken by the Department as well as an opportunity for interested members of the public to weigh in on the direction of the Department. As stated previously, the Department does not believe that it is appropriate to simply weigh public sentiment and advocate positions accordingly; however, it could allow for the possibility to better engage members of the public and help inform the Department with respect to the positions that should be taken.

B. Greater Outreach to the Public

The Department does not typically take a position in a case until there has been opportunity for public input, which usually occurs through a public hearing held by the Board. We note that Board practice in these public hearings is not to engage the public but instead to passively receive comments. In order to better determine and interact with the public in specific cases, the Department could hold its own public meeting before the Board's and allow interested persons to engage with the Department, ask questions of the Department and the petitioner, and allow the Department to explore issues with the people who attend. This would not supplant the opportunity for people to file written comments, but would be one more avenue for people to

better understand and more effectively participate in the PSB process. The Annual Report described above could prove to be helpful in this outreach.

C. Greater Transparency about Memoranda of Understanding

When the Department enters into an MOU with a party in an attempt to resolve an issue, it provides a filing which has a goal of convincing the Board, which has read all of the evidence in the case, that a certain outcome is beneficial. We have already changed practices over the last several years to ensure we do not enter into an MOU in advance of public hearings or intervention schedules associated with a particular case. However, the filing of an MOU has not typically fully addressed why the Department took such a position – generally taking the position the MOU speaks for itself. In order to provide greater understanding, the Department could develop a practice of submitting a filing explaining why we believe a given MOU is in the public interest.

In light of the changing nature of cases before the PSB – particularly the much greater involvement of people who are not versed in the Board’s procedures – the Department has concluded that it should better manage the use of the MOU settlement vehicle, particularly in cases with active intervenors. Additionally, the Department is considering a standard practice where all parties would be notified and provided an opportunity to participate in initial settlement discussions, whether initiated by the Department or another party to a Board proceeding. We are not clear this would work in all cases, but certainly will consider doing so in cases where we believe the other parties and the overall outcome would benefit.

VIII. Conclusion

As this report describes, there is no one structural model that is optimal, and each model has tradeoffs. We have not proposed specific structural reforms as we do not believe that there is

an inherently better model for Vermont ratepayers. This does not mean that there is not room for improvement; while some of the comments received stem largely from the particular positions that the Department has taken in recent Board proceedings, there is also a clear indication that the Department should do better in conveying the rationale for why the Department has taken a particular position. In the complexities of weighing the “public interest” in a given proceeding, we believe any advocate should be accountable to the elected officials and the legislative body of the citizens we serve. We also believe the Department structure as it exists can accommodate this responsibility in an informed and transparent manner, which, while not pleasing to everyone all of the time, can stand on its analysis and relate credibly to all those who express interest. Thank you to all who have engaged in this important evaluation, and we look forward to continuing the discussion.

State Consumer Advocates								
State	Consumer Advocate Agency	Appointed By	Year Created	Budget	# of FTE	Term	Responsibilities	Website
Alabama	Office of the Attorney General, General Civil and Administrative Law Division, Utilities Section	Attorney General is elected; Assistant Attorney General appointed by Attorney General				Attorney General term: 4 years; Assistant Attorney General serves at the pleasure of the Attorney General	<p>This section of the Civil Division acts as the advocate for the consumers before the Alabama Public Service Commission and represents the Attorney General in all utility matters before the Public Service Commission. The Attorney General, primarily representing residential consumers, intervenes in utility matters affecting the public interest, particularly those utility dockets involving rate and service issues with electricity, natural gas, telecommunications, water, and wastewater companies.</p> <p>The Attorney General receives and reviews all applications, petitions, and pleadings filed by public utilities doing business in the State of Alabama. The Public Service Commission's staff provides technical assistance to the attorneys in the Utility Section and the attorneys have access to all of the Public Service Commission's books, records, studies, and reports. The Attorney General also appears before other state and federal agencies and courts in all matters concerning public utility services on behalf of consumers. The Attorney General also assists municipalities, public corporations, and consumers who have utility questions involving rate and service issues about the practices of unregulated utilities. The Attorney General may not represent private individuals before the Public Service Commission or before any other state or federal agencies or courts.</p>	http://www.ago.state.al.us/Page-Utilities-Section
Alaska	Department of Law, Regulatory Affairs & Public Advocacy (RAPA) section	Attorney General is appointed by Governor, subject to Legislative approval, to head Dept. of Law; Chief Assistant Attorney General is appointed by Attorney General to head RAPA	2004		9	Attorney General serves at the pleasure of the Governor; Chief Asst. AG serves at the pleasure of the Attorney General (partially exempt); Governor term: 4 years	<p>The responsibility of public advocacy for regulatory affairs was established within the Department of Law to advocate on behalf of the public interest in utility and pipeline matters that come before the Regulatory Commission of Alaska (RCA or Commission). AS 44.23.020(e). The Attorney General, as the Public Advocate, advocates for the general public interest with particular attention to the interests of consumers who would not otherwise have an effective voice regarding the rates and services of regulated utilities or pipeline carriers operating in the state. Advocacy is not strictly limited to asking for the lowest possible rate for services provided to the public, but is instead balanced to also ensure utility and pipeline service providers are financially healthy enabling them to provide safe and reliable service.</p>	http://www.law.state.ak.us/department/civil/rapa/rapa.html
Arizona	Residential Utility Consumer Office (RUCO)	RUCO Director appointed by Governor who nominates and with consent of Arizona Senate makes appointment	1983	General Fund: \$1.3M	11	RUCO Director serves at the pleasure of the Governor; Governor term: 4 years	<p>The Residential Utility Consumer Office ("RUCO") was established by the Arizona Legislature in 1983 to represent the interests of residential utility ratepayers in rate-related proceedings involving public service corporations before the Arizona Corporation Commission ("ACC" or "Commission").</p>	http://www.azruco.gov/

Arkansas	Office of the Attorney General, Public Protection Department, Consumer Utility Rate Advocacy Division (CURAD)	Attorney General is elected by public; Attorney General appoints a Director (Deputy AG) of CURAD	2007			Attorney General term: 2 years	<p>The Consumer Utility Rate Advocacy Division (CURAD), aggressively represents the interests of Arkansas' utility customers through advocacy, education, and litigation.</p> <p>The Attorney General's CURAD Division represents Arkansas ratepayers in front of the Public Service Commission and the Federal Energy Regulatory Commission. CURAD litigates on behalf of Arkansas consumers when utilities petition the Public Service Commission for rate increases, seek approval for sales or mergers, request permission to purchase or construct power, and when the Commission initiates cases to establish customer service rules and other policies that affect ratepayers. Since 2007, Attorney General's Office has saved ratepayers hundreds of millions of dollars in rate reductions and rebates. Those savings are near \$1 billion. CURAD acts as an advocate in giving the "consumers' side" in policy debates before the General Assembly. CURAD has assisted the legislature in shaping policies which concern ratepayers and utility regulation.</p> <p>CURAD also acts to educate the rate-paying public. Through the Attorney General's Consumer Protection Hotline, (800) 482-8982, the division handles scores of inquiries each month from utility consumers. Callers seek information concerning their individual bills, the utilities' rates, or procedures in general.</p>	http://arkansasag.gov/programs/arkansas-lawyer/consumer-utility-rate
California	California Public Utilities Commission (PUC), Office of Ratepayer Advocates (independent arm of PUC)	Director appointed by Governor and confirmed by state Senate	1984	\$29.4M	142	Director serves at the pleasure of the Governor; Governor term: 4 years	<p>The Division of Ratepayer Advocates is the independent consumer advocacy division within the California Public Utilities Commission and is the ratepayer advocate in the Gas, Electric, Telecommunications and Water Industries. Its statutory mission is to obtain the lowest possible rate for service consistent with reliable and safe service levels. In fulfilling this goal, DRA also advocates for customer and environmental protections.</p>	http://ora.ca.gov/
Colorado	Department of Regulatory Agencies (DORA), Office of Consumer Counsel	Executive Director of DORA is appointed by the Governor, with consent of the Senate; Consumer Counsel appointed by Executive Director of DORA	1984	\$1.7M	7	Executive Director term: Personnel employee. Serves at the pleasure of the Governor; Governor term: 4 years	<p>The Colorado Office of Consumer Counsel advocates on behalf of residential, small business, and agricultural consumers as a class in energy and telecommunications matters before the Colorado Public Utilities Commission. Led by the Consumer Counsel, the OCC promotes affordable, high quality, and reliable service. The does not regulate - we advise and advocate on behalf of consumers. Consumer protection is the mission of the OCC and DORA.</p>	https://www.colorado.gov/dora/office-consumer-counsel
Connecticut	Office of Consumer Counsel (within the Department of Public Utility Control)	Consumer Counsel is appointed by the Governor, confirmed by either house of the State of Connecticut General Assembly	1975	\$2.75M	13	Consumer Counsel term: 5 years	<p>The Office of Consumer Counsel is an independent state agency with statutory responsibility to represent customers of Connecticut's five regulated utilities – electric, gas, water, telephone, and to some extent, cable television, primarily in matters that go before the Department of Public Utility Control. The OCC is authorized to participate on behalf of consumer interests in all administrative and judicial forums and in any matters in which the interests of consumers with respect to public utility matters may be involved.</p>	http://www.ct.gov/occ/site/default.asp
Delaware	Division of the Public Advocate (within the Department of State)	Public Advocate appointed by Governor, subject to confirmation by the Delaware State Senate)	1978		5	Public Advocate serves at the pleasure of the Governor; Governor term: 4 years	<p>The Public Advocate advocates for the lowest reasonable rates for consumers, consistent with an equitable distribution of rates among all classes of consumers and the maintenance of adequate utility service. The Public Advocate will appear before the Delaware Public Service Commission on behalf of the interest of consumers in any matter or proceeding over which the Commission has jurisdiction and in which the Public Advocate deems the interest of consumers requires such participation. The Public Advocate will also appear on behalf of the interest of consumers in the courts of this State, the federal courts and federal administrative and regulatory agencies and commissions in matters involving rates, service and practices of public utilities regulated by the PSC.</p>	http://publicadvocate.delaware.gov/consumerinfo.shtml
District of Columbia	Office of the People's Counsel (established within the Public Service Commission of the District of Columbia)	People's Counsel appointed by Mayor, with District of Columbia Council approval	1975		19	Term: 3 years	<p>The Office of the People's Counsel is an independent agency that advocates for consumers of natural gas, electric and telephone services. The Office also represents the interests of District ratepayers before federal regulatory agencies. The Office is authorized to investigate the operation and valuation of utility companies independently of any pending proceeding. The Office's mandate is to advocate the provision of quality utility service and equitable treatment at rates that are just, reasonable, and nondiscriminatory to assist individual consumers in disputes with utility companies about billing or services; and to provide technical assistance and consumer education to the Consumer Utility Board ("CUB") and other community groups.</p>	http://www.opc-dc.gov/

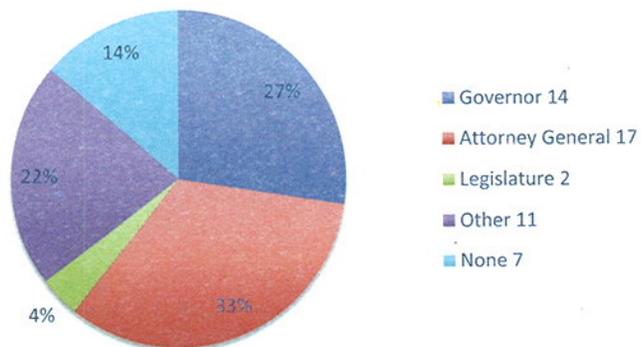
Florida	Florida Office of Public Counsel	Public Counsel appointed by State Legislature Joint Committee on Public Counsel Oversight composed of 12 members – 6 members of the Senate appointed by the President of the Senate (2 must be members of the minority party) and 6 members of the House of Representatives appointed by the Speaker of the House of Representatives (2 must be members of the minority party.)	1974			Public Counsel term: 2 years. Serves at the pleasure of the Joint Committee on Public Counsel Oversight, subject to biennial confirmation by Committee	The Office of the Public Counsel provides legal representation for the people of the state in utility related matters in proceedings before the Florida Public Service Commission, and in proceedings before counties. The Public Counsel exists under the auspices of the Joint Committee on Public Counsel Oversight. It intervenes in rate proceedings involving private telephone and electric utilities, as well as in numerous proceedings involving gas, water, and wastewater utilities.	http://www.floridaopc.gov/	
Georgia	No state utility consumer advocate office. (The state's Consumers' Utility Council, which advocated on behalf of residential ratepayers in utility cases, was defunded in 2008 due to the state's budget crisis, but the law that created CUC has not been repealed and the CUC remains a division of the Governor's Office of Consumer Affairs)								
Hawaii	Division of Consumer Advocacy (DCA)– Public Utilities	Director of the Department of Commerce and Consumer Affairs (DCCA) is appointed by Governor, with the advice and consent of the Senate. Director of Commerce and Consumer Affairs employs the Director of Div. of Consumer Advocacy (DCA)				DCCA Director term: Term expires at the end of the term for which the Governor was elected; DCA serves at the pleasure of the Director	The Division of Consumer Advocacy represents consumer interests before the Hawaii Public Utilities Commission, the Federal Communications Commission, and other local and federal agencies. These organizations have regulatory jurisdiction over public utility services, including power generation, telecommunications services, synthetic natural gas, water and wastewater, transportation, and other similar public utility services. The division assists and represents customers of utility services as a whole rather than a single customer or select group of people. The DCA is in a separate department from the PUC.	http://www.hawaii.gov/dcca/dca/	
Idaho	No state utility consumer advocate office. (There is an effort underway in the Idaho state legislature to pass a bill to create an Office of Consumer Advocate.)								
Illinois	Office of the Illinois Attorney General, Public Utilities Bureau	Attorney General is elected by public; Division head serves at the pleasure of AG	1983	\$100,000 from State; Membership-based	28	Attorney General term: four years	The Citizens Utility Board, a nonprofit, nonpartisan organization, was created by statute to represent the interests of residential utility customers across the state. The statute directs CUB to carry out that mission by intervening in ratemaking proceedings before the Illinois Commerce Commission, in the courts and before other public bodies and by providing consumers with information and assistance regarding their utility companies.	http://www.ag.state.il.us/ http://citizensutilityboard.org/About.html	
Indiana	Indiana Office of Utility Consumer Counselor	Consumer Counselor is appointed by Governor	1933	\$5.6M	51	Consumer Counselor term: 4 years and serves at the pleasure of the Governor	The Indiana Office of Utility Consumer Counselor represents the interests of residential, commercial and industrial utility customers in cases before the Indiana Utility Regulatory Commission, Federal Energy Regulatory Commission, and the Indiana Court of Appeals and Supreme Court.	http://www.ai.org/oucc	
Iowa	Office of Consumer Advocate (The Office of Consumer Advocate is a division of the Iowa Department of Justice.) The Attorney General is over the Iowa Department of Justice	Attorney General is elected by the public. Consumer Advocate is appointed by the Attorney General and confirmed by the Iowa Senate.	1983		16	Attorney General term: four years; Consumer Advocate term: four years	The Consumer Advocate's statutory responsibility is to investigate the legality of rates and practices of all utility companies subject to the jurisdiction of the Iowa Utilities Board, and to represent consumers and the public generally before state and federal agencies concerning those matters. The Office of Consumer Advocate is a separate division of the Iowa Attorney General's Office. It was established by the Iowa General Assembly.	https://www.iowaattorneygeneral.gov/for-consumers/office-of-consumer-advocate-utilities/	
Kansas	Citizens' Utility Ratepayer Board of Kansas (CURB)	Five (5) member board is appointed by the Governor (1 member from each congressional district and the remainder from the state at large). Board members elect Chairperson and hire Consumer Counsel (an attorney)	1988		6	Board members term: four years; Consumer Counsel term: No term limit. Serves at pleasure of Board.	The Citizens' Utility Ratepayer Board protects the interests of residential and small commercial utility ratepayers in the state. CURB has a five-member volunteer board that is appointed by the Governor. There is one member from each congressional district with the fifth member serving as an at-large appointee.	http://curb.kcc.state.ks.us/	
Kentucky	Office of the Attorney General, Office of Rate Intervention	Attorney General is elected by the public	1996		5	Attorney General term: 4 years	The Office of Rate Intervention serves as a watchdog for consumers in matters relating to health insurance, natural gas, water, sewer, electric and telephone rates. Under Kentucky law, the office is responsible for representing the interests of Kentucky consumers before governmental rate making agencies, concentrating on utility cases (electric, water, telecommunications, and natural gas) before the Public Service Commission	http://ag.ky.gov/civil/rate/Pages/default.aspx	
Louisiana	No state utility consumer advocate office. (Louisiana Public Service Commission, Utilities Division provides assistance to "the citizens of Louisiana.")								

Maine	Office of Public Advocate	Public Advocate is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over public utilities matters and to confirmation by the Legislature.	2005	\$1.67M	9	Public Advocate term: terms 4 years not coincident with the term of the Governor. Serves at the pleasure of the Governor	The Public Advocate Office's primary responsibility represents the interests of Maine residential users of utility service. Our attorneys advocate for rates, services and practices to benefit residential customers in regulatory and court proceedings. Most of our work takes place in proceedings before the Maine Public Utilities Commission. Our Office also intervenes in cases before the Federal Energy Regulatory Commission.	http://www.maine.gov/meopa/
Maryland	Office of People's Counsel (OPC)	Attorney General is elected by the public; People's Counsel is appointed by the Attorney General, with consent of the Senate, to run the OPC which is an independent agency and not part of the AG's office	1924		19	Attorney General term: four years; People's Counsel term: five years	The People's Counsel, appointed by the Attorney General with the advice and consent of the Senate, acts independently of the Maryland Public Service Commission and the Office of Attorney General. OPC represents Maryland's residential consumers of electric, natural gas, telecommunications, private water and certain transportation matters before the PSC, federal regulatory agencies and the courts.	http://www.opc.state.md.us/
Massachusetts	Attorney General's Energy and Telecommunications Division - Office of Ratepayer Advocacy (ORA)	Attorney General is elected by the public. Division head serves at the pleasure of the Attorney General.				Attorney General term: four years; Division head serves coterminous with the Attorney General	As ratepayer advocates, the Energy and Telecommunications Division within the Attorney General's Office represents consumers in matters involving the price and delivery of natural gas, electricity and telecommunication services before federal and state government regulators. The Division works to ensure that Massachusetts businesses and residents have access to reliable, safe and affordable energy.	http://www.mass.gov/ago/bureaus/eeb/the-energy-and-telecommunications-division/
Michigan	Department of Attorney General, Consumer & Environmental Protection Bureau, Environment, Natural Resources, & Agriculture Division	Attorney General is elected by the public; Assistant Attorney General is appointed by Attorney General				Attorney General term: four years; Assistant Attorney General serves at the pleasure of the Attorney General		
Minnesota	Office of Attorney General, Residential and Small Business Utilities Division	Attorney General is elected by the public				Term: 4 years		
Mississippi	No state utility consumer advocate office. (Attorney General can intervene and participate in matters before the Mississippi Public Service Commission.)							
Missouri	Office of the Public Counsel	Department of Economic Development Director is appointed by Governor, subject to Senate approval; Public Counsel is appointed by DED Director	1975		14	DED Director term: until a successor is appointed; Public Counsel serves at the pleasure of the DED Director	The Office of Public Counsel represents the interests of the public and utility customers in proceedings before the Missouri Public Service Commission (PSC) and in appeals in the courts. The PSC regulates the rates and services of investor-owned electric, natural gas, telephone, water, sewer and steam heat utilities. The Office of the Public Counsel is independent from the PSC and has a separate budget and staff.	http://opc.mo.gov/
Montana	Consumer Counsel	Consumer Counsel is appointed by the Legislative Consumer Committee		\$1.09M	6	Serves at the pleasure of the Legislative Consumer Counsel Committee	The Consumer Counsel is appointed by the legislature to safeguard the consumer interests. The Counsel represent Montana consumers in utility and transportation proceedings before the Public Service Commission, in appropriate proceedings before the Federal Energy Regulatory Commission, Federal Communications Commission and other federal administrative agencies, and in appropriate state and federal court proceedings.	http://leg.mt.gov/css/Committees/administration/Consumer%20Counsel/
Nebraska	Nebraska Public Advocate (within the Public Service Commission, Natural Gas, Natural Gas department) (Gas Only)	Executive Director and Public Service Commissioners are elected by the public; Public Advocate is appointed by Executive Director of Public Service				Executive Director and Public Service Commissioners term: six years; Public Advocate term: 4 years	Private attorney hired by Public Service Commission to represent public in gas cases.	
Nevada	Office of Attorney General, Bureau of Consumer Protection	Attorney General is elected by the public; Consumer's Advocate is appointed by the Attorney General				Attorney General term: four years; Consumer Advocate term: four years	Under the direction of the Attorney General and Consumer Advocate, the Bureau of Consumer Protection represents the public interest before the Public Utilities Commission, federal utility regulatory agencies, courts and all other forums. The role before these bodies is to advocate for reliable utility service at the lowest reasonable cost-particularly for residential and small business customers of public utilities. BCP is actively involved in federal and state regulatory and legislative proceedings related to the restructuring of the telecommunications, electric, natural gas, and alternative energy industries.	http://ag.nv.gov/About/Consumer_Protection/Bureau_of_Consumer_Protection/
New Hampshire	Office of the Consumer Advocate (this is the independent agency administratively attached to the public utilities commission)	Consumer Advocate is appointed by the Governor and Executive Council	1999	\$700,000	6	Consumer Advocate term: four years; Governor term: two years	The Office of Consumer Advocate is an independent state agency with statutory responsibility to represent residential customers of New Hampshire's regulated public utilities that provide electric, natural gas, telephone or water services. The OCA primarily fulfills this responsibility by participating in proceedings before the New Hampshire Public Utilities Commission (PUC). The OCA advocates for reasonably-priced, safe and reliable utility services, as well as for well-designed and prudently-administered ratepayer funded programs.	http://www.oca.nh.gov/

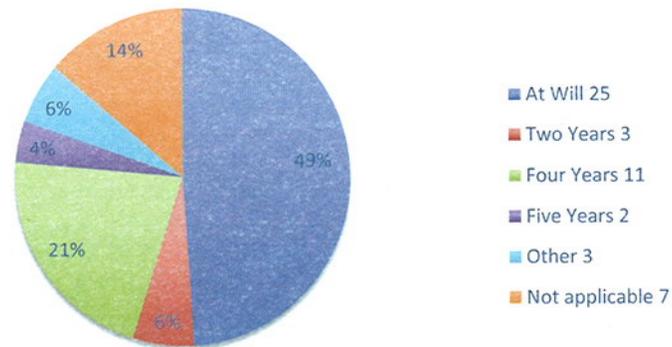
New Jersey	Division of the Rate Counsel (formerly called Division of the Ratepayer Advocate. In, but not of, the state's Department of Treasury)	Director is appointed by the Governor, with the advice and consent of the Senate			29	Director term: Serve during Governor's term of office; Governor term: four years	The Division of Rate Counsel represents the interests of consumers of electric, natural gas, water/sewer, telecommunications, cable TV service, and insurance (residential, small business, commercial and industrial customers). The New Jersey Legislature charged Rate Counsel with being "devoted to the maximum extent possible to ensuring adequate representation of the interest of those consumers whose interest would otherwise be inadequately represented in matters within the jurisdiction of the Division of Rate Counsel."	http://www.state.nj.us/rpa/
New Mexico	Office of Attorney General, Water, Environment and Utilities Division (Position title: Director)	Attorney General is elected by the public; Division Director is appointed by the Attorney General				Attorney General term: four years; Division Director serves at the pleasure of the Attorney General	The water, environment and utilities division actively pursues the Attorney General's responsibility to represent residential and small business utility consumers by participating in electric, gas, and telecommunications cases that impact large numbers of New Mexicans. The cases may be a rulemaking, a rate case, an effort by a utility to be deregulated, or one of many other issues that affect utility consumers. Additionally, the Division is authorized to represent the State in utility matters before the Federal Communications Commission and the Federal Energy Regulatory Commission .	http://www.nmag.gov/environmental-protection.aspx
New York	New York Department of State, Division of Consumer Protection - Utility Intervention Unit	Chairperson and Executive Director is appointed by the Governor, with advice and consent of the Senate				Serves at the pleasure of the Governor		http://www.dos.ny.gov/consumerprotection/
North Carolina	Department of Justice, Office of Attorney General, Utilities Section	Attorney General is elected by public				Attorney General term: 4 years		http://www.ncdoj.gov/Consumer.aspx
North Dakota	No state utility consumer advocate office.							
Ohio	Office of the Ohio Consumers' Counsel	Consumers' Counsel is appointed by the Consumers' Counsel Governing Board; Nine member board is appointed by the Attorney General, with advice and consent of the Senate. Attorney General is elected by the public	1976	\$5.6M	35	Consumers' Counsel serves at the pleasure of the Consumers Counsel Governing Board	The Office of the Ohio Consumers' Counsel is the statewide legal representative for Ohio's residential consumers in matters related to their utility services. The OCC advocates for residential consumers in administrative proceedings before the Public Utilities Commission of Ohio, state and federal courts, federal regulatory agencies, and the Ohio General Assembly. The agency also monitors utility companies' compliance with regulatory standards and educates consumers about utility issues and the services provided by their investor-owned electric, natural gas, telephone and water companies. The Consumers' Counsel is selected by a nine-member, bipartisan governing board representing family farmers, organized labor and residential consumers. Each governing board member is appointed by the Ohio Attorney General. The OCC has approximately 35 employees and an operating budget of \$5.6 million.	http://www.occ.ohio.gov/
Oklahoma	Office of the Attorney General, Public Utilities Unit	Attorney General is elected by public				Attorney General term: 4 years		
Oregon	Citizens' Utility Board of Oregon (CUB) (independent nonprofit corporation). All consumers are eligible for membership on the Board after making a monetary contribution yearly to the Board. CUB of Governors manage the affairs of CUB and may delegate to an executive committee of at least five members of the board. CUB was created by statute, but is now funded by dues.	Members elect the CUB of Governors; Executive Director is appointed by Citizens' Utility Board of Governors; CUB of Governors comprised of three persons (CUB members) elected from each of his/her congressional district by members residing in that district.	1984		10	Executive Director serves at the pleasure of the CUB of Governors; CUB of Governors term: four years (not to exceed two consecutive terms)	The Citizens Utility Board is a non-profit that represents the interests of Oregon's residential utility customers before administrative, judicial and legislative bodies, such as the Oregon Public Utility Commission and the Oregon Legislature. CUB works on affordable utility service, energy efficiency measures, low-income consumer protection, environmental stewardship and responsibility, renewable resources use and promotion, smart grid and other emerging technologies, and electric vehicle integration and regulation. The CUB Board of Governors represents the five congressional districts in Oregon. Board members are elected by CUB members for a 4 year term.	http://oregoncub.org/
Pennsylvania	Pennsylvania Office of Consumer Advocate (OCA) (Independent office within the Office of Attorney General)	Attorney General is elected by the public. Consumer Advocate by Attorney General & confirmed by the Senate	1976		28	Attorney General term: four years; Consumer Advocate term: Variable. Serves at the pleasure of the Attorney General.	The Office of Consumer Advocate (OCA) is a state agency that represents the interests of Pennsylvania utility consumers before the Pennsylvania Public Utility Commission (PUC), federal regulatory agencies, and state and federal courts. It is an independent office within the Office of Attorney General.	http://www.oca.state.pa.us/
Rhode Island	No state utility consumer advocate office.							
South Carolina	Office of Regulatory Staff (State legislature created an oversight committee for both the ORS and the Public Service Commission. This ten-member committee (State Regulation of Public Utilities Review Committee) is composed of six members of the S.C. General Assembly and four representatives of the general public. This committee recommends the ORS Executive Director candidate to the governor.)	Executive Director appointed by Governor	2004		79	Executive Director term: six years. Serves at pleasure of the Governor		

South Dakota	No state utility consumer advocate office. (Public Service Commission and Attorney General offer assistance to consumers who have disputes with investor-owned electric, natural gas, and telephone service providers.)						
Tennessee	Tennessee Attorney General's Office, Consumer Advocate and Protection Division	Attorney General appointed by Judges of Tennessee Supreme Court; Deputy Attorney General appointed by Attorney General to head Consumer Advocate and Protection Division				Attorney General term: eight years; Deputy Attorney General serves at pleasure of the Attorney General	
Texas	Office of Public Utility Counsel	Public Utility Counsel is appointed by Governor, with advice and consent of Senate	1983		19	Public Utility Counsel term: two years; Governor term: four years	The Office of Public Utility Counsel represents residential and small business consumer interests involving any utility regulated by the Public Utility Commission of Texas. This includes investor-owned electric utilities, retail electric providers, and local telephone providers. The Office of Public Utility Counsel (OPUC) is headed by the Public Counsel, who is appointed by the Governor and confirmed by the Senate for a two-year term. http://www.opuc.texas.gov/
Utah	Office of Consumer Services (within Department of Commerce. Formerly Committee of Consumer Services. Utah legislature reorganized the Committee into the Office of Consumer Services to advise it regarding utility rate changes and other regulatory actions)	Director is appointed by Governor, with concurrence of Committee and consent of Senate (Office receives legal assistance from the Attorney General)	1977		6	Director term: Six years	The Office of Consumer Services is Utah's utility consumer advocate, representing residential, small commercial and agricultural consumers of natural gas, electric and telephone service before the Utah Public Service Commission. The director is appointed by the Governor, with the concurrence of the Committee and consent of the Senate, for a term of six years. The Committee of Consumer Services now exists as a nine-member layperson board as part of the Office to advise it regarding utility rate changes and other regulatory actions on residential, small commercial and irrigator customers and to help establish policy objectives. http://www.ocs.utah.gov/
Vermont	Vermont Department of Public Service, Division of Public Advocacy	Commissioner appointed by Governor; Director for Public Advocacy is appointed by Department of Public Service Commissioner. Length of term: Serves at pleasure of Governor and Commissioner				Commissioner term: two years. Serves at the pleasure of the Governor; Director of Public Advocacy serves at the pleasure of the Governor and Department of Public Service Commissioner; Gov. term: two years.	The Public Service Department is an agency within the executive branch which represents the public interest in matters regarding energy, telecommunications, water and wastewater. The Department carries out this charge by representing the public interest in utility cases before the Public Service Board, federal regulatory agencies, and state and federal courts. The Department is a separate agency from the Vermont Public Service Board, which serves as the quasi-judicial or decision-making authority in utility regulatory cases. http://publicservice.vermont.gov/about_us/divisions#public_advocacy
Virginia	Attorney General Office, Insurance and Utilities Regulatory Section	Attorney General is elected by public				Attorney General term: 4 years	to serve the Attorney General's Consumer Counsel function, pursuant to Section 2.2-517 of the Code of Virginia, in matters related to the regulation of insurance and utilities, particularly as such regulations affect rates and service for monopoly services. The Section does not have agency clients, but instead represents the http://www.oag.state.va.us/index.php/divisions/civil-litigation/insurance-utilities-regulatory
Washington	Washington State Attorney General's Office, Public Counsel Unit	Attorney General is elected by public; Public Counsel is appointed by Attorney General				Attorney General term: four years; Public Counsel term: No set term. Serves at the pleasure of the Attorney General	The Public Counsel Unit of the Attorney General's Office represents the customers of Washington's investor-owned telephone, electric and natural gas utilities regulated by the state Utilities and Transportation Commission. Public Counsel represents the interests of residential and small business consumers, on issues such as rates, service quality, conservation, business practices, mergers, and competition. http://www.atg.wa.gov/public-counsel
West Virginia	Consumer Advocate Division of the Public Service Commission (CAD is an independent division of PSC)	Public Service Commission consists of three members appointed by Governor, with advice and consent of Senate; PSC Commissioners appoint a Director of the Consumer Advocate Division	1981		5	Public Service Commissioners term: Staggered six year terms; Consumer Advocate term: two years	The Consumer Advocate Division is an independent division of the Public Service Commission. The Consumer Advocate Division advocates primarily on behalf of residential customers, striving to obtain the lowest possible rates for gas, water, telephone, and electric services. http://www.cad.state.wv.us/
Wisconsin	Citizens Utility Board of Wisconsin (CUB) is the only consumer advocacy group fighting for ratepayers in Wisconsin. CUB was created by statute, but later reorganized to a private nonprofit organization supported by member dues.						
			2009	\$1.3M			During 2015 legislative session, the Joint Finance Committee of the Wisconsin Legislature voted to end ratepayer funding for the staff CUB of Wisconsin. Committee voted 12-4 on party line vote. http://www.wiscub.org/
Wyoming	Office of Consumer Advocate of the Wyoming Public Service Commission	Administrator of Office of Consumer Advocate is appointed by the Governor	2003	\$1.8M	6	Administrator term: No term. Indefinite	The Office of Consumer Advocate is an independent division within the Public Service Commission charged with representing the interests of citizens and all classes of utility customers in matters involving public utilities. The Administrator is appointed by and reports to the Governor. The Office provides expert witnesses and testimony for the Public Service Commission on behalf of all Wyoming rate payers. http://psc.state.wy.us/oca/oca.htm

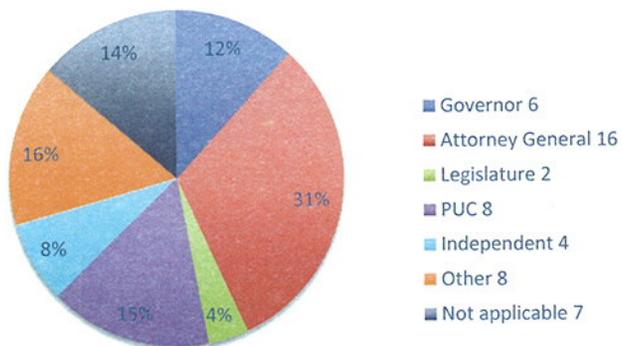
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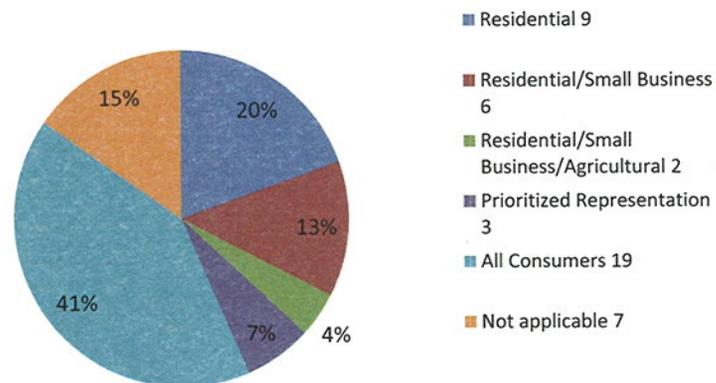
Term



Agency Affiliation



Jurisdiction



Act 56 PA Report Interviewees

Ancel, Charlotte
Berkley, Richard
Briesemeister, Janee
Brown, Victoria
Coleman, Warren
Coward, Richard
Driscoll, William
Dworkin, Michael
Frankel, Deena
Johnson, Kerrick
Levine, Sandra
Levis, Bill
Littell, David
Louiselle, Shana
Mullett, David
Popowski, Sonny
Press, Sam
Rubin, Scott
Saudek, Richard
Sciarrotta, S. Mark
Sedano, Richard
Smith, Annette
Sterzinger, George
Tarrant, Gerald
Terry, Steve
Volz, Jim
Ward, Steve
Young, George
Zamore, Peter

Written Comment Submissions

AARP-Vermont

Bob Amelang

Anonymous

Laura Asermily

Town of Brattleboro

Barbara Clearbridge

Ross Conrad

Peter Gile

Ramona Godfrey

Katharine Hikel

Thomas Matsuda

Lawrence O'Neill

Carl Scott

Mary-Alice Shemo

Ron Slabaugh

Rachel Smolker

Vermont Energy Partnership

Windham Regional Commission

Actual comments can be found at:

http://publicservice.vermont.gov/publications/advocate_report

Public Hearings

October 20, 2015 – Rutland Regional Medical Center, Rutland

October 21, 2015 – River Arts, Morrisville

November 17, 2015 – Shelburne Town Offices, Shelburne

November 18, 2015 – Brattleboro Union High School, Brattleboro

Transcripts can be found at:

http://publicservice.vermont.gov/publications/advocate_report

Appendix F – Compilation of Statutory Goals in Title 30

§ 1. Composition of Department

(a) The Department of Public Service shall consist of the Commissioner of Public Service, a Director for Regulated Utility Planning, a Director for Public Advocacy, a Director for Energy Efficiency, a Director for Telecommunications and Connectivity, and such other persons as the Commissioner considers necessary to conduct the business of the Department.

(b) The Commissioner shall be appointed by the Governor with the advice and consent of the Senate. The Commissioner shall serve for a term of two years beginning on February 1 of the year in which the appointment is made. The Commissioner shall serve at the pleasure of the Governor. The Directors for Regulated Utility Planning, for Public Advocacy, and for Energy Efficiency shall be appointed by the Commissioner. The Director for Telecommunications and Connectivity shall be appointed by the Commissioner in consultation with the Secretary of Administration.

(c) The Directors for Public Advocacy and for Telecommunications and Connectivity may employ, with the approval of the Commissioner, legal counsel and other experts, and clerical assistance, and the Directors for Regulated Utility Planning and for Energy Efficiency may employ, with the approval of the Commissioner, experts and clerical assistance.

§ 2. Department of Public Service; powers

(a) The Department of Public Service shall supervise and direct the execution of all laws relating to public service corporations and firms and individuals engaged in such business, including the:

(1) formation, organization, ownership, and acquisition of facilities of public service corporations under chapter 3 of this title;

(2) participation in planning for proper utility service as provided in section 202 of this title through the Director for Regulated Utility Planning;

(3) supervision and evaluation under chapters 5 and 77 of this title of the quality of service of public utility companies;

(4) interconnection and interchange of facilities of electric companies under sections 210, 213, and 214 of this title;

(5) representation of the State in the negotiations and proceedings for the procurement of electric energy from any source outside this State and from any generation facility inside the State under sections 211 and 212 of this title;

(6) review of proposed changes in rate schedules and petition to the Public Service Board, and representation of the interests of the consuming public in proceedings to change rate schedules of public service companies under chapter 5 of this title;

- (7) siting of electric generation and transmission facilities under section 248 of this title;
- (8) consolidations and mergers of public service corporations under chapter 7 of this title;
- (9) supervision and regulation of cable television systems under chapter 13 of this title;
- (10) supervision and regulation of telegraph and telephone companies under chapters 71, 73, and 75 of this title;
- (11) supervision and regulation of the organization and operation of municipal plants under chapter 79 of this title; and
- (12) supervision and regulation of the organization and operation of electric cooperatives under chapter 81 of this title.

(b) In cases requiring hearings by the Board, the Department, through the Director for Public Advocacy, shall represent the interests of the people of the State, unless otherwise specified by law. In any hearing, the Board may, if it determines that the public interest would be served, request the Attorney General or a member of the Vermont Bar to represent the public or the State. In addition, the Department may intervene, appear, and participate in Federal Energy Regulatory Commission proceedings, Federal Communications Commission proceedings, or other federal administrative proceedings on behalf of the Vermont public.

(c) The Department may bring proceedings on its own motion before the Public Service Board, with respect to any matter within the jurisdiction of the Public Service Board, and may initiate rule-making proceedings before that Board. The Public Service Board, with respect to any matter within its jurisdiction, may issue orders on its own motion and may initiate rule-making proceedings.

(d) In any proceeding where the decommissioning fund for the Vermont Yankee Nuclear Facility is involved, the Department shall represent the consuming public in a manner that acknowledges that the general public interest requires that the consuming public, rather than either the State's future consumers who never obtain benefits from the facility or the State's taxpayers, ought to provide for all costs of decommissioning. The Department shall seek to have the decommissioning fund be based on all reasonably expected costs.

(e) The Commissioner of Public Service (the Commissioner) will work with the Director of the Office of Economic Opportunity (the Director), the Commissioner of Housing and Community Development, the Vermont Housing and Conservation Board (VHCB), the Vermont Housing Finance Agency (VHFA), the Vermont Community Action Partnership, and the efficiency entity or entities appointed under subdivision 209(d)(2) of this title and such other affected persons or entities as the Commissioner considers relevant to improve the energy efficiency of both single- and multi-family affordable housing units, including multi-family housing units previously funded by VHCB and VHFA and subject to the Multifamily Energy Design Standards adopted by the VHCB and VHFA. In consultation with the other entities identified in this subsection, the Commissioner and the Director together shall report twice to the House and Senate Committees on Natural Resources and Energy, on or before January 31, 2015 and 2017, respectively, on their

joint efforts to improve energy savings of affordable housing units and increase the number of units assisted, including their efforts to:

- (1) simplify access to funding and other resources for energy efficiency and renewable energy available for single- and multi-family affordable housing. For the purpose of this subsection, "renewable energy" shall have the same meaning as under section 8002 of this title;
 - (2) ensure the delivery of energy services in a manner that is timely, comprehensive, and cost-effective;
 - (3) implement the energy efficiency standards applicable to single- and multi-family affordable housing;
 - (4) measure the results and performance of energy improvements;
 - (5) develop guidance for the owners and residents of affordable housing to maximize energy savings from improvements; and
 - (6) determine how to enhance energy efficiency resources for the affordable housing sector in a manner that avoids or reduces the need for assistance under 33 V.S.A. chapter 26 (home heating fuel assistance).
- (f) In performing its duties under this section, the Department shall give heightened consideration to the interests of ratepayer classes who are not independently represented parties in proceedings before the Board, including residential, low-income, and small business consumers, as well as other consumers whose interests might otherwise not be adequately represented but for the Department's advocacy.
- (g) In all forums affecting policy and decision making for the New England region's electric system, including matters before the Federal Energy Regulatory Commission and the Independent System Operator of New England, the Department of Public Service shall advance positions that are consistent with the statutory policies and goals set forth in 10 V.S.A. §§ 578, 580, and 581 and sections 202a, 8001, 8004, and 8005 of this title. In those forums, the Department also shall advance positions that avoid or minimize adverse consequences to Vermont and its ratepayers from regional and inter-regional cost allocation for transmission projects. This subsection shall not compel the Department to initiate or participate in litigation and shall not preclude the Department from entering into agreements that represent a reasonable advance to these statutory policies and goals.

§ 202. Electrical energy planning

(a) The Department of Public Service, through the Director for Regulated Utility Planning, shall constitute the responsible utility planning agency of the State for the purpose of obtaining for all consumers in the State proper utility service at minimum cost under efficient and economical management consistent with other public policy of the State. The Director shall be responsible

for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety, and conservation.

(b) The Department, through the Director, shall prepare an electrical energy plan for the State. The Plan shall be for a 20-year period and shall serve as a basis for State electrical energy policy. The Electric Energy Plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The Plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types, and design, conservation, and other trends and factors which, as determined by the Director, will significantly affect State electrical energy policy and programs;

(2) an assessment of all energy resources available to the State for electrical generation or to supply electrical power, including, among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;

(3) estimates of the projected level of electrical energy demand;

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; and

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate six-year period, for the next succeeding six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

§ 202a. State energy policy

It is the general policy of the state of Vermont:

(1) To assure, to the greatest extent practicable, that Vermont can meet its energy service needs in a manner that is adequate, reliable, secure and sustainable; that assures affordability and

encourages the state's economic vitality, the efficient use of energy resources and cost effective demand side management; and that is environmentally sound.

(2) To identify and evaluate on an ongoing basis, resources that will meet Vermont's energy service needs in accordance with the principles of least cost integrated planning; including efficiency, conservation and load management alternatives, wise use of renewable resources and environmentally sound energy supply.

§ 218c. Least cost integrated planning

(a)(1) A "least cost integrated plan" for a regulated electric or gas utility is a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission, and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs. Economic costs shall be assessed with due regard to:

(A) the greenhouse gas inventory developed under the provisions of 10 V.S.A. § 582;

(B) the State's progress in meeting its greenhouse gas reduction goals;

(C) the value of the financial risks associated with greenhouse gas emissions from various power sources; and

(D) consistency with section 8001 (renewable energy goals) of this title.

(2) "Comprehensive energy efficiency programs" shall mean a coordinated set of investments or program expenditures made by a regulated electric or gas utility or other entity as approved by the Board pursuant to subsection 209(d) of this title to meet the public's need for energy services through efficiency, conservation or load management in all customer classes and areas of opportunity which is designed to acquire the full amount of cost effective savings from such investments or programs.

(b) Each regulated electric or gas company shall prepare and implement a least cost integrated plan for the provision of energy services to its Vermont customers. At least every third year on a schedule directed by the Public Service Board, each such company shall submit a proposed plan to the Department of Public Service and the Public Service Board. The Board, after notice and opportunity for hearing, may approve a company's least cost integrated plan if it determines that the company's plan complies with the requirements of subdivision (a)(1) of this section and of sections 8004 and 8005 of this title.

§ 218e. Implementing State energy policy; manufacturing

To give effect to the policies of section 202a of this title to provide reliable and affordable energy and assure the State's economic vitality, it is critical to retain and recruit manufacturing

and other businesses and to consider the impact on manufacturing and other businesses when issuing orders, adopting rules, and making other decisions affecting the cost and reliability of electricity and other fuels. Implementation of the State's energy policy should:

- (1) encourage recruitment and retention of employers providing high-quality jobs and related economic investment and support the State's economic welfare; and
- (2) appropriately balance the objectives of this section with the other policy goals and criteria established in this title.

§ 209(d) Energy efficiency.

- (1) Programs and measures. The Department of Public Service, any entity appointed by the Board under subdivision (2) of this subsection, all gas and electric utility companies, and the Board upon its own motion, are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and measures, including appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency of Natural Resources. Such programs and measures, and their implementation, may be approved by the Board if it determines they will be beneficial to the ratepayers of the companies after such notice and hearings as the Board may require by order or by rule. The Department of Public Service shall investigate the feasibility of enhancing and expanding the efficiency programs of gas utilities and shall make any appropriate proposals to the Board.

§ 8001. Renewable energy goals

(a) The General Assembly finds it in the interest of the people of the State to promote the State energy policy established in section 202a of this title by:

- (1) Balancing the benefits, lifetime costs, and rates of the State's overall energy portfolio to ensure that to the greatest extent possible the economic benefits of renewable energy in the State flow to the Vermont economy in general, and to the rate paying citizens of the State in particular.
- (2) Supporting development of renewable energy that uses natural resources efficiently and related planned energy industries in Vermont, and the jobs and economic benefits associated with such development, while retaining and supporting existing renewable energy infrastructure.
- (3) Providing an incentive for the State's retail electricity providers to enter into affordable, long-term, stably priced renewable energy contracts that mitigate market price fluctuation for Vermonters.
- (4) Developing viable markets for renewable energy and energy efficiency projects.
- (5) Protecting and promoting air and water quality in the State and region through the displacement of those fuels, including fossil fuels, which are known to emit or discharge pollutants.

(6) Contributing to reductions in global climate change and anticipating the impacts on the State's economy that might be caused by federal regulation designed to attain those reductions.

(7) Providing support and incentives to locate renewable energy plants of small and moderate size in a manner that is distributed across the State's electric grid, including locating such plants in areas that will provide benefit to the operation and management of that grid through such means as reducing line losses and addressing transmission and distribution constraints.

(8) Promoting the inclusion, in Vermont's electric supply portfolio, of renewable energy plants that are diverse in plant capacity and type of renewable energy technology.

(b) The Board shall adopt the rules that are necessary to allow the Board and the Department to implement and supervise programs pursuant to subchapter 1 of this chapter.

§ 202c. State telecommunications; policy and planning

(a) The General Assembly finds that advances in telecommunications technology and changes in federal regulatory policy are rapidly reshaping telecommunications services, thereby promising the people and businesses of the State communication and access to information, while creating new challenges for maintaining a robust, modern telecommunications network in Vermont.

(b) Therefore, to direct the benefits of improved telecommunications technology to all Vermonters, it is the purpose of this section and section 202d of this title to:

(1) strengthen the State's role in telecommunications planning;

(2) support the universal availability of appropriate infrastructure and affordable services for transmitting voice and high-speed data;

(3) support the availability of modern mobile wireless telecommunications services along the State's travel corridors and in the State's communities;

(4) provide for high-quality, reliable telecommunications services for Vermont businesses and residents;

(5) provide the benefits of future advances in telecommunications technologies to Vermont residents and businesses;

(6) support competitive choice for consumers among telecommunications service providers and promote open access among competitive service providers on nondiscriminatory terms to networks over which broadband and telecommunications services are delivered;

(7) support the application of telecommunications technology to maintain and improve governmental and public services, public safety, and the economic development of the State;

(8) support deployment of broadband infrastructure that:

(A) uses the best commercially available technology;

(B) does not negatively affect the ability of Vermont to take advantage of future improvements in broadband technology or result in widespread installation of technology that becomes outmoded within a short period after installation;

(9) in the deployment of broadband infrastructure, encourage the use of existing facilities, such as existing utility poles and corridors and other structures, in preference to the construction of new facilities or the replacement of existing structures with taller structures; and

(10) support measures designed to ensure that by the end of the year 2024 every E-911 business and residential location in Vermont has infrastructure capable of delivering Internet access with service that has a minimum download speed of 100 Mbps and is symmetrical.