

To: House Government Operations Committee
From: Tom Buckley, Burlington Electric Department
Date: April 8, 2015
Re: House Bill 355

Good morning, and thank you for the opportunity to testify on proposed House Bill 355. I am Tom Buckley, the Manager of Customer & Energy Services for Burlington Electric Department. I am not a forester in any sense beyond my own back yard, but I'm presenting this morning the opinions of Bill Kropelin, The McNeil Generating Station's Chief Forester, and one of Vermont's most respected.

As a bit of background: The McNeil Station procured 465,000 green tons of wood last year from northern VT and NY harvesting operations and sawmills resulting in approximately \$15 million of regional economic activity. McNeil's wood purchasing supports over 90 harvesting and transportation related jobs in addition to the 40 employees who work at the Station. McNeil Station is one of New England Central RR's largest customers as 75% of the wood fuel is delivered to the plant by rail.

Under today's regulatory scheme, the VT Public Service Board has jurisdiction over McNeil Station's operation including requiring adherence to wood procurement standards. These standards include employing 4 foresters who plan and monitor all wood procurement operations. The BED foresters are all New Hampshire Licensed Professional Foresters. Two are certified by the Society of American Foresters. Suppliers of wood from Vermont forests must comply with recognized good harvesting practices including review of harvest plans by the VT Dept. of Fish and Wildlife. Purchases from outside VT must be in compliance with pertinent regulations in those jurisdictions. BED foresters schedule wood fuel deliveries by truck and rail and also manage wood storage activities both at McNeil and satellite locations.

Turning to the bill, BED is not opposed to the concept of licensing foresters. However, we have many concerns with H.355 as currently drafted, and could not support the bill in its current form. The following are specific concerns:

The proposed legislation, if adopted, would restrict forestry practice and the use of the title "Forester" to persons who meet minimum educational requirements, and who are not convicted felons. This is an appropriate starting point. However, the proposal includes language requiring very subjective judgment by a Program Director or their designee of one's ability "to practice forestry competently ...". The Director could withhold a license or a renewal based on his/her negative interpretation of this phrase, or for a person whom the Director feels possesses a "disability ... which interferes with the ability to practice forestry competently".

Would such inability include age? Arthritis? Poor eye sight? What happens to persons competent to practice some but not an entire suite of forestry practices due to such disabilities? Would they be subject to "conditions"? Would "accommodations" be required in order to assure ADA compliance? Through what expertise or certification does a "Director"

become qualified to evaluate whether or not a person is competent to practice forestry? Are advisory foresters able to advise the Director on such matters without it being a conflict of interest? The disability language in this proposal begs many more questions than it answers.

The proposed legislation would grant a license to a person possessing a BS degree and passing the SAF Certified Forester test but having no experience. BED questions the wisdom of not requiring some experience in order to be licensed.

The proposal defines “forestry” as a science, art and practice of ... managing... resources in a sustainable manner...”. The term “sustainable” is not defined. Even foresters disagree about a definition. Will a legislature be able to define it? Or will a licensee be subjected to defending one’s practices as “sustainable” without legislative guidance?

The proposal requires persons practicing sustainable forestry to be licensed. Will practitioners of non-sustainable practices not need a license? Would those who simply offer professional advice without charging for services be licensed? What new expertise and positions employed by the state might be required to develop and manage this certification? Will there be new layers of enforcement required in the woods? Would the state biologists who now tell BED how much wood can be cut in order to meet the bar of sustainability be required to be licensed?

The proposal would create another means for harvesting opponents to interrupt and interfere with landowners and loggers legitimate activities. Any interested party could challenge a forester’s actions which would cost time and money to defend.

The proposal requires licensed foresters to be on-site and in immediate attendance of unlicensed employees. This is unnecessary in BED’s opinion. It would be better if there were a “provisional license” for employees working toward becoming licensed and the on-site requirement dropped from the bill.

Finally, the proposal does not completely accomplish its main objective of safeguarding public welfare. If landowners are seeking a risk-free means to identify a forester with whom they will be satisfied in all regards, this is not the way. Intelligent landowners will continue to interview potential forester candidates, ask to view their work product and check references. Landowners will still need to invest some effort to protect themselves even if this law passes.

I’m happy to answer any questions, or to convey questions back to BED’s forestry staff. Thank you.