

Vermont's Energy Siting Process



Margaret Cheney, Member
Vermont Public Service Board

March 17, 2015



Overview

- The Public Service Board
- Section 248 subject matter
- Section 248 substantive criteria
- Section 248 procedures
- Public participation



The Public Service Board

- Three members
- Hearing Officer staff
- Quasi-judicial
- Conducts evidentiary hearings
- Decisions can be appealed to Vermont Supreme Court
- Rulemaking authority
- Administers programs and statutes enacted by the Legislature



Energy Siting Proceedings

- Section 248
 - “Full” Section 248 proceedings (large projects)
 - Streamlined proceedings
 - Section 248(j)
 - Section 248(k)
 - Modified review that waives certain criteria
 - Section 8007(a) for renewables 150 kW and smaller
 - Section 8007(b) for renewables 150 kW - 2.2 MW
 - Net Metering (Section 219a, applying 248 criteria)



Net Metering

- <15 kW: Simple 10-Day registration
- >15 kW to 150 kW: Streamlined application form
- >150 kW to 500 kW: Petition with potential for hearing



Section 248 Substantive Criteria

(1) Orderly Development of the Region

- With “due consideration” given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality

(2) Need for Present and Future Demand for Service

(3) System Stability and Reliability

(4) Economic Benefit to the State

(5) Not have undue adverse effect on Aesthetics, Historic Sites, Air and Water Purity, the Natural Environment, or Public Health and Safety

- With “due consideration” given to the criteria specified in 10 V.S.A. §§1424a(d) and 6086(a)(1)-(8), and 9(K)

(6) Consistency with Resource Selection/ Integrated Resource Plan

(7) Consistency with Department's Electric Plan

(8) Outstanding Resources Water

(9) Waste to Energy

(10) Existing Transmission Facilities



Section 248 Substantive Criteria

Due Consideration

The process of giving “due consideration”

- It involves carefully reviewing and weighing all the evidence and arguments
- For instance, in analyzing the evidence and arguments under the “orderly development” criterion: How does a recommendation or land conservation measure fit within the larger context that requires the Board to balance many state policies, goals, and needs?
- An example of the process of giving “due consideration”:
Docket 7844, pp. 8-13 of Order dated 1/22/13
(Hearing Officer discussion) and pp. 38-39 (Board discussion)



Section 248 Procedures

Who Receives Information and When?

- 45-day advance filing of project plans to municipality and planning commissions
- Petition
 - Filed with Board, Department, other specified state agencies, municipal and regional planning commissions, and municipal legislative bodies
 - Petitioner also must provide notice of the filing to adjoining landowners (per Board Rule 5.402)



Section 248 Procedures

Who Participates?

- Members of the public may participate by speaking at public hearings held by the Board and by filing written comments at any time
- Formal parties participate by filing written testimony, answering discovery questions, and attending evidentiary hearings
 - Petitioner
 - Department of Public Service
 - Agency of Natural Resources
 - Intervenors



Section 248 Procedures

Intervention

- Applicant must demonstrate a substantial interest that may be adversely affected by the outcome of the case
- Board must consider:
 - whether the applicant's interest will be adequately protected by other parties;
 - whether alternative means exist by which the applicant's interest can be protected;
 - whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or the public



Section 248 Procedures

Step by Step

- Prehearing conference
- Site visit
- Public hearing
- Intervention



Section 248 Procedures

Step by Step (cont'd)

- Prefiled testimony and exhibits
- Discovery
- Evidentiary hearings
- Briefs
- Board decision (after PFD, if Hearing Officer case)



Public Participation

- The Board welcomes public participation
- *Citizens' Guide to the 248 Process*
- There are two ways for the public to participate:
 - Public comments
 - Move to intervene as a party
- Public comments may be presented orally or in writing at a public hearing, or submitted by mail, e-mail, or directly through the Board's website