



**Senate Natural Resources Committees  
Public Service Board Section 248 Permit Process  
Tuesday, February 9, 2016**

Thank you for the opportunity to testify on S. 230.

Through the end of November, according to the Department of Public Service, there were 1461 applications for solar facilities in Vermont, 1215 of them for installations of less than 15 kw. According to the Comprehensive Energy Plan, we have 4,996 solar sites generating 94,860 kw of electricity. We have 13 wind turbines over 100 kw in Vermont and several more large turbines planned. The Governor expects solar installations will double in 2016.

We need to get the siting process right - now.

When local officials from around the state testified to your committee on January 20, you heard Vermont does not have a balance between the public good that is renewable and reliable energy generation and the public good of appropriate land use on the local level that reflects state goals of compact settlements surrounded by rural countryside. This imbalance is illustrated by the Public Service Board (PSB) Chair's description of the Board that he gave to the House Appropriations Committee last week:

"The Board's mission is to ensure the provision of high quality public utility services, at minimum reasonable costs, measured over time periods consistent with the long term public good of the state. The Board strives to achieve this mission by providing an independent fair and efficient means of resolving public utility disputes; and by guiding the development of state utility policies and rules for public services to best serve the long term interest of Vermont and its residents, all as defined in Title 30 VSA." 2/5/16.

We believe this is a great description of the PSB function in a world that no longer exists, where the entire conversation is based on the premise of utilities that are monopolies within their geographic boundaries.

VLCT's Adopted Municipal policy calls on the legislature to:

Ensure that Vermont's energy supply remains reliable and that the Public Service Board restores balance between the transition to renewable energy and the protection of land use priorities established in municipal plans and state land use goals.

Accord automatic party status to affected adjacent municipalities as well as host municipalities in Section 248 proceedings. In the CPG process, the PSB should give “substantial deference” to municipal concerns and determinations. In so doing, the PSB should include all local decisions concerning the project within the PSB docket, formulate areas of inquiry based on concerns raised in the local hearing process, and address concerns raised in local determinations and adopted municipal plans in its CPG decision.

We endorse the results of the Solar Siting Task Force, as far as they go. As a consensus document, the Solar Siting Taskforce Report does not address several concerns that have been raised by local governments.

We urge you to include the following language in S. 230.

Sec. 1. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES;  
CERTIFICATE OF PUBLIC GOOD

(a)(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities:

(A) No company as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001 (14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the State which is designed for immediate or eventual operation at any voltage;

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(4) (B) The Public Service Board shall hold technical hearings at locations which it selects in the municipality in which the facility is located. When a facility is located in or will affect more than one municipality, the Board shall hold technical hearings at one of more locations readily accessible to residents of each municipality. The Board shall formulate areas of inquiry with respect to the application based on concerns raised in the local hearing process.

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(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment or construction:

(1) With respect to an instate facility, will not unduly interfere with the orderly development of the region with ~~due consideration~~ substantial deference having been 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. In this subdivision (1), “substantial deference” means that a recommendation or land conservation measure shall be presumed valid, correct and reasonable and shall be applied in accordance with its terms unless there is a clear and convincing

demonstration that it lacks a rational basis or that other factors affecting the general good of the State outweigh application of the recommendation or measure. In its decision, the Board shall explain in detail the reasons for its determination that the general good of the State outweighs the recommendation or measure.

(A) Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations on a bylaw adopted under 24 V.S.A. Chapter 117 by the municipality in which the facility is located.

(B) A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

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