

Definitions of “**Substantial Deference**”  
Prepared by Legislative Council, April 29, 2016

Public Service Board <sup>1</sup>	H.870 as Passed House (Department of Public Service) <sup>2</sup>	S.230 as Passed Senate	S.230 (House Proposal of Amendment)
<p><b>Substantial deference</b> means to <u>give significant and meaningful weight</u> to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively.</p>	<p><b>Substantial deference</b> means the land conservation measures in the plans of the affected municipality and the recommendations of the affected municipality’s local legislative bodies and local or regional planning commission regarding their respective plans are <u>presumed correct, valid, and reasonable unless there is good cause to find otherwise.</u></p>	<p>(C) The Board shall apply the land conservation measures and specific policies contained in a duly adopted municipal or regional plan to an application for an in-state electric generation facility as follows:</p> <p>(i) For an application filed before March 1, 2017, the Board <b>shall defer</b> to such a measure or policy and apply it in accordance with its terms <u>unless a preponderance of the evidence demonstrates that other factors affecting the general good of the State outweigh the application of the measure or policy.</u></p> <p>(ii) For an application filed on or after March 1, 2017:</p>	<p><b>Substantial deference</b> means that a land conservation measure or specific policy <b>shall be applied</b> in accordance with its terms <u>unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.</u></p>
<p><b>Good cause</b> means a showing that deferring to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively, <u>would be detrimental to the public good or the State’s interests articulated in 30 V.S.A. § 202c.</u></p>	<p><b>Good cause</b> means a showing of evidence that deferring to the land conservation measures in the plans of the affected municipalities and the recommendations of the municipal legislative bodies and the municipal and regional planning commissions regarding the municipal and regional plans, respectively, <u>would create a substantial shortcoming detrimental to the public good or State’s interests in 30 V.S.A. § 202c.</u></p>	<p>(I) If the plan has received a certificate of energy compliance under 24 V.S.A. § 4352, the <b>Board shall defer</b> to such a measure or policy and apply it in accordance with its terms <u>unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.</u></p> <p>(II) If the plan has not received a certificate of energy compliance under 24 V.S.A. § 4352, the Board <u>shall give due consideration to such a measure or policy.</u></p>	

<sup>1</sup> Third amended Order implementing standards and procedures for issuance of a certificate of public good for communications facilities pursuant to 30 V.S.A. § 248a, Order Issued August 19, 2015.

<sup>2</sup> Department of Public Service Comments and Recommendations to Revise Section 249a Procedures Order, dated August 4, 2014.