

February 3, 2017

**Testimony of David Snedeker, Executive Director, Northeastern Vermont
Development Association (NVDA)**

Dear Members of the House Committee on Energy & Technology:

Thank you for inviting Regional Planning Commission representatives to appear and speak on Act 174 and its implementation to date. Addressing and planning for energy usage (demand/supply), efficiency, conservation, and siting is a very important issue for Vermont communities today and into the future given our statewide energy goals and a changing climate. We believe that Vermont's regional planning commissions are uniquely positioned and are ready to assist our communities to meet these challenges.

Background:

Act 174 of 2016 established a new set of municipal and regional energy planning standards, which if met allow those plans to carry greater weight - substantial deference - in the Section 248 siting process for energy generation. Meeting the standards is entirely voluntary.

Standards were designed to allow municipalities and regions to show that their plans have taken a close look at energy in their community, have considered energy used for buildings and transportation, analyzed their current and future energy use, and planned carefully in alignment with state energy policy for the land use needs of energy generation. The new standards basically at regions and towns to address: Adoption requirements; Energy Element requirement; Analysis & Targets standards; Pathways (Implementation) standards; and Mapping standards.

The *abridged* (4-page) version of the standards for regional commissions can be found at: http://publicservice.vermont.gov/sites/dps/files/documents/Pubs_Plans_Reports/Act_174/Regional%20Standards_Abridged_Final.pdf

The *abridged* (4-page) version of the standards for municipalities can be found at: http://publicservice.vermont.gov/sites/dps/files/documents/Pubs_Plans_Reports/Act_174/Municipal%20Standards_Abridged_Final.pdf

Implementation:

Regional Commissions each received funding from the Department of Public Service to update their Regional Plans to meet the new standards. The commissions are working directly with DPS and the Vermont Energy Investment Corporation to develop their plans. *The funding provided by DPS will allow all RPCs to bring their respective plans into compliance with the standards set by Act 174.*

Regional Commissions each received funding for one year to assist *three* municipalities to meet the new standards. The commissions can either dis-aggregate the regional data provided to them by DPS/VEIC when working with municipalities, or they can develop their own data from common data resources. *The funding provided to the RPCs for one year would not be sufficient for RPCs to assist all of the towns in their respective regions given the in-depth involvement needed for each town plan. (i.e. - NVDA alone has 50 towns in its region, 40 of which have municipal plans to update).*

Concerns:

Regions and (some) municipalities are working diligently to meet the requirements of Act 174 to obtain “substantial deference” in the Public Service Board Section 248 siting process for energy generation facilities. Because the Department of Public Service and VEIC are working closely with the regional commissions on their regional plans, it is expected that those plans would sufficiently meet the standards for compliance, giving the regional plans “substantial deference” in the PSB proceedings. Regional commissions, in turn and knowing the standards, will be able to certify that municipal plans will meet the new standards and also be given “substantial deference”. **However, some regional commissions and many municipalities remain concerned that the Public Service Board can still ignore the goals and recommendations of updated regional and/or local plans if they feel a generation project meets the broader public good/interest.**

The amount of work required for municipalities to meet the standards of Act 174 to obtain “substantial deference” in the PSB Section 248 proceedings are great. Most local planning commissions are volunteer, after-hour positions. Act 174’s requirements for data gathering and analysis, scenario modeling for implementation, and mapping places a significant burden on these local commissions staffed by volunteers. Municipalities are also not directly receiving funds for this work. While the RPCs have received funds to assist approximately 45 towns in this first year, there appears to be at least 30 (and maybe as many as 75 based on training meeting attendance) towns interested in becoming compliant with Act 174 right away. **More funding is needed for municipalities to become Act 174 compliant.**

Act 174 and NVDA’s Experience and Conclusions:

Experience:

The siting of renewable energy generation facilities, and particularly industrial-scale wind facilities, has been an issue of great importance for the communities of the Northeast Kingdom. Following the controversy surrounding the projects that were developed in Sheffield and Lowell and the developments that were proposed for East Mountain (East Haven) and Seneca Mountain (Brighton, Newark, and the Unified Towns & Gores), the NVDA Board of Directors first passed a (2012) regional moratorium on industrial wind development until further study. Following the study, the NVDA Board of Directors included the following position in the adopted 2015 *Regional for the Northeast Kingdom*:

“The NVDA sees one clear benefit to industrial wind energy, one clear problem, and a host of troubling questions. The clear benefit is the tax relief that industrial-scale wind turbines bring to their host towns. The clear problem is the bitter divisions that wind brings to our communities. The troubling questions involve the unreliability of wind energy, the amount of energy produced versus the social and environmental disruption, the costliness of the electricity, and the dubiousness of the claims of environmental benefit. We are even more troubled by the potential impacts on human health, essential wildlife habitat, water quality, aesthetics, property values, and our tourism industry.

We are also troubled by the state’s energy policies, the state’s permitting process, and the ease with which the public good as expressed in our municipal and regional plans can be overridden

by people who may never have even visited our region. It is the position of the NVDA that no further development of industrial-scale wind turbines should take place in the Northeast Kingdom.”

Conclusions:

It can be said that Act 174 was passed so that VT communities would comprehensively look at their energy usage and future needs and plan accordingly. However, we believe that Act 174 was essentially developed and passed primarily in response to the desire of VT communities to have a greater say as to where and what type of renewable energy generation facilities they would like to see in their communities. In some areas, solar developments were the issue, while in other regions the issue was the siting of industrial-scale wind. **While there is value to the information that we are now gaining as we address the new Act 174 standards at the local and regional levels, ensuring that PSB decisions reflect local public concerns about projects or siting would address many complaints/concerns and make this much easier for our regions and municipalities. NVDA is essentially participating in this process so that towns have the option to be certified by NVDA vs. DPS, although we note their oversight role.**

The standards required for both regional and municipal planning commissions to obtain “substantial deference” in the PSB’s Section 248 siting process are significant and without guarantee that a plan ‘compliant’ with the Act 174 standards will achieve a decision by the PSB that supports the plan(s). This represents a significant investment of time and resources (including funding) at local and regional levels. **If PSB decisions ultimately reflect the desires of the towns, more funding will be needed to assist RPCs with bringing other towns into compliance with the standards.**

The precedent that Act 174 has created is troubling. We now have a state agency (the Department of Public Service) certifying that Regional and/or Municipal Plans are compliant (or not) with state standards which could give them greater weight in the quasi-judicial proceedings of the Public Service Board. **The Department of Public Service and the Regional Planning Commissions are also potential intervenors in PSB hearings, so their role in the development and ‘certification’ of local or regional plans seems to be a potential conflict of interest. There is also the risk of other state agencies wanting local or regional plans to reflect that agency’s particular priorities. This top-down approach runs counter to the fact that RPCs are created by their member municipalities.**

Thank you for your service to the legislature and the State of Vermont.

Sincerely,

David Snedeker
Executive Director, NVDA