

# Addison County Regional Planning Commission

14 Seminary Street Middlebury, VT 05753 www.acrpc.org Phone: 802.388.3141 Fax: 802.388.0038

April 3, 2018  
HAND DELIVERED

Dear Members of the Senate Finance Committee:

On behalf of the seven communities of Isle LaMotte, Colchester, Charlotte, Panton, Shoreham, Bridport and Orwell, Dawn Francis, the Town Manager for the Town of Colchester, and I formally request some time and consideration before the Senate Finance Committee to discuss a tax equity issue that will potentially result in additional revenues to our communities of \$2.5 Million dollars and the state education fund of \$7.5 Million dollars annually for the next 40 years.

Two bills relating to this issue that have been introduced this session - S.274 and H.889. Both equitably resolve the tax issue stemming from ambiguity in the existing statute 32 V.S.A. § 3655. A brief description regarding the need to clarify the existing statute follows:

## TAXATION OF ELECTRICAL INFRASTRUCTURE IN THE LAKE

This matter concerns the taxation of electric transmission lines that have been and will be proposed to be laid under Lake Champlain to bring renewable power from northern New York, Quebec and other portions of Canada to southern New England. These lines traverse Vermont but generally will not provide power to the state.

All electric transmission lines in Vermont are taxable by municipalities as real property. 32 V.S.A. §3602(a). Currently, such taxation extends not only to overland lines but under a specific statute, also extend to the existing VELCO underwater transmission line in the lake off of South Hero and Grand Isle. 32 V.S.A. § 3655. As Section 3655 is currently written, VELCO has been paying taxes on its line in Lake Champlain for almost 60 years. However, the statute is ambiguous and has been interpreted in different ways regarding whether other electric lines would pay taxes and whether other lakeshore municipalities possess the same authority to tax underwater electric lines.

While developers have all agreed that the overland portions of lines they develop will be taxable, the developers with portions of their proposed lines under Lake Champlain have addressed the taxation issues in different ways. In their PUC filings, the developers of the "Green Line" proposed to make tax payments to South Hero and Grand Isle, but not other lakeshore communities. In its filing before the PUC, TDI proposed that its underwater line is not taxable by any town. In both proceedings, ACRPC and CCRPC, on behalf of their member municipalities, maintained that all lakeshore municipalities would have the ability to tax the portion of all electric transmission lines in the Lake directly west of that municipality.

Seven towns (Isle LaMotte, Colchester, Charlotte, Panton, Shoreham, Bridport and Orwell) have joined together in this effort to ensure that all municipalities adjoining Lake Champlain have the same authority to impose taxes on electric infrastructure in the Lake and to make sure all electric utilities and merchant power companies pay taxes on their electric lines as a simple issue of fairness and equity. Specifically, the Vermont Constitution's Proportional Contribution and Common Benefits clauses require a rational basis for discriminating against any taxpayer or group of tax payers. Therefore, it is unconstitutional to permit (i) the taxation of the VELCO transmission line while exempting the TDI's line, the Greenline or other electric powerlines; or to permit (ii) two towns to tax electric lines in the lake while not allowing similarly situated towns to impose property taxes.

Addison	Bridport	Bristol	Cornwall	Ferrisburgh	Goshen	Leicester
Lincoln	Middlebury	Monkton	New Haven	Orwell	Panton	Ripton
Salisbury	Shoreham	Starksboro	Vergennes	Waltham	Weybridge	Whiting



Addison County  
Regional Planning Commission

The issue is significant for Vermont. As an example, if taxes are imposed on the TDI line as proposed, it would generate approximately \$7.5 million in annual tax revenues to the State of Vermont, plus another \$2.5 million for the towns. Such taxes would be not impact Vermont ratepayers because these lines are designed to serve Massachusetts and other New England States and not Vermont.

As part of its approval from the PUC, TDI entered into a Lake Clean Up Agreement in which it agreed to make significant payments designed to help lake cleanup efforts if it is constructed. TDI asserts it entered such agreement with the understanding that the line would not be taxed. However, such understanding was based upon an oral, informal advisory opinion from a tax department official. Also, ACRPC and CCRPC had provided TDI notice that they believed the line was subject to municipal property tax PRIOR to TDI entering that agreement. TDI states the Clean Up Agreement addresses this tax exemption issue. However, it only does so in a precatory "Whereas" clause and not as a condition of the Agreement. **Allowing all municipalities to have the same authority to impose taxes on underwater electric lines is the most equitable and best solution for Vermont.** It is not a basis for TDI to walk away from the Agreement. They knew of the issue with the towns and chose to make the agreement anyway without the agreement being contingent on the municipal property tax issue and without consulting the towns. TDI claims that the additional property tax burden will threaten the financial viability of the project. This is very unlikely given the billions of dollars in revenue this line will generate.

The bills before the legislature are Senate Bill, S. 274 Introduced by Sen. Bray

<https://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/S-0274/S-0274%20As%20Introduced.pdf>

House Bill, H.889 Introduced by Representatives Condon of Colchester, Brennan of Colchester, Dakin of Colchester, Norris of Shoreham, Smith of New Haven, Taylor of Colchester, Van Wyck of Ferrisburgh, and Yantachka of Charlotte

<https://legislature.vermont.gov/assets/Documents/2018/Docs/BILLS/H-0889/H-0889%20As%20Introduced.pdf>

Dawn Francis and I have requested time with the House Ways and Means Committee and would also appreciate some time before Senate Finance Committee to discuss this issue and our proposed solution. Thank you for your consideration.

Sincerely,



Adam Lougee, Director  
Addison County Regional Planning Commission