



Complaints about Alleged Violations of the Terms
and Conditions of Certificates of Public Good
Pursuant to Act No. 130 (H.577)

First Annual Report for the Year Ending December 31, 2016

Submitted to:

Vermont General Assembly

Consumer Affairs and Public Information Division
Vermont Department of Public Service
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Introduction

In response to Act 130, the Consumer Affairs and Public Information division (CAPI) of the Vermont Department of Public Service (Department) drafted a protocol to address complaints about the potential failure of Certificate of Public Good (CPG) holders to abide by the terms and conditions of their CPG. Input was solicited prior to and during the writing of the protocol from a variety of individuals, departments and organizations including outreach to people who had previously made complaints about CPG holders. Two press releases were issued: one soliciting input from the public as the protocol was being written and a second, in early September when CAPI began researching complaints under the protocol. A webpage on the Department's website included both a survey for public input and a link for the public to submit email comments. The draft protocol was implemented on September 1, 2016 per Act 130, and modified in December after inclusion of comments from the Agency of Natural Resources (ANR) that were not previously available. Beginning in September, the Public Service Board (PSB) began referring complaints about potential CPG violations to CAPI and including in Board orders direction to CPG holders to follow the complaint protocol.

The complaint protocol and associated documents are available online at:
<http://publicservice.vermont.gov/cpg-complaint-protocol>

The public may make complaints by email, in writing, by phone or in person to CAPI. A copy of the complaint intake form is found in Appendix A. A company, CPG holder, or other agency that receives a complaint may collect basic details and forward that information to CAPI. However, no complainant is required to contact a company prior to filing a complaint with CAPI. CAPI will research complaints and work toward informal resolution between the complainant and the CPG holder. If CAPI fails to reach an informal resolution, the complainant will be advised to contact the Public Service Board with a formal complaint. If appropriate, the Department will ask the Board to open a formal investigation.

CAPI updated its existing database to manage complaints and worked with the Department's consultant to include necessary changes to the new database likely to come online in early 2017. A reporting form and process were provided to other state agencies to report to CAPI on a quarterly basis data about CPG complaints they have taken in. This form is available on the Department's website and is included here in Appendix D. A separate form to provide updates about complaints that remain open more than one quarter is included in Appendix E.

Complaints Researched by Consumer Affairs and Public Information at the Vermont Department of Public Service for the period September 1, 2016 through December 31, 2016

CAPI received six complaints in August prior to the protocol's implementation. CAPI researched and documented the cases and used its evolving understanding of best practices for handling complaints of this nature to address complainants' needs. Of those six complaints, CAPI's research indicates that only one complaint was actually about the terms and conditions of a CPG. Three complainants were advised to file complaints with the Public Service Board directly because the complaints related to handling of their CPG applications. One complaint

related to a concern about whether there were any adverse impacts caused by solar generating systems on ratepayers. Another individual made comments about an open docket for the construction of a telecommunications tower. There was one complaint about the terms and conditions of a CPG; it was a noise complaint that was closed due to insufficient information.

For the 2016 reporting period, beginning September 1 and ending December 31, CAPI received eight complaints. There were four complaints filed in the fourth quarter and four complaints filed in the third quarter of 2016. Complainants were referred to CAPI by the Public Service Board or had seen press releases about the new complaint protocol. CAPI has not yet received any report data regarding complaints handled by utilities or other state agencies.

Third quarter 2016 complaints

In the 3rd quarter, CAPI received four complaints, three for the same project. This paragraph summarizes data shown in Table 1. Three residents complained that an approved project was being constructed in a different place than what was stated in the application. The complainants brought the dispute to the PSB on CAPI’s recommendation and the proceeding is on-going at the Board. The fourth complaint concerned odor from a bio-digester. CAPI found no term or condition in the CPG relating to odor and the complainant took no additional action to the best of our knowledge.

Table 1. CPG Complaints 3rd Quarter 2016 Consolidated by Project

Energy Type	Project town	Other complaints in past 6 months?	Type of complaint	Investigated?	Potential violation?	Resolved by CAPI?	Referred to PSB?	Referred to ANR
Bio-digester	Randolph	No	Odor	Yes	No	Yes	No	No
Solar	Guilford	Yes* 3 in total this QTR	Siting/ change of location	Yes	Yes	No	Yes	

Note: This table represents data for only the month of September because the Complaint Protocol was implemented beginning September 1, 2016 pursuant to Act 130.

* CAPI received three complaints regarding the same issue between 9/13/16 and 9/15/16

Fourth quarter 2016 complaints

Fourth quarter complaints totaled four, including two complaints about noise and two siting complaints. This paragraph summarizes data shown in Table 2. CAPI researched three complaints; the fourth was not researched because the complainant failed to follow up with CAPI, which was therefore unable to complete the intake process. One complaint was about a small solar facility sized at 5 kW. Following research, this complaint was determined to be

unsubstantiated and was resolved accordingly. CAPI investigated another solar complaint but found no apparent violation. However, the complainant was unsatisfied, so no resolution was reached. The fourth complaint involved a potential noise violation. Research yielded that there was a potential violation and the CPG holder took steps to resolve the concern, thereby yielding an informal resolution to the initial complaint. No complaints were referred to ANR or the PSB for investigation during the fourth quarter.

Table 2. CPG Complaints 4th Quarter 2016 Consolidated by Project

Energy Type	Project town	Other complaints in past 6 months?	Type of complaint	Investigated?	Potential violation?	Resolved by CAPI?	Referred to PSB?	Referred to ANR
Wind	Georgia	No	Noise	Yes	Yes	Yes	No	No
Solar	Norwich	No	Siting/ Wetlands*	Yes	No	Yes	No	No
Wind	Vergennes	No	Noise	No **				
Solar	Groton	No	Siting/ Aesthetics/notice	Yes	In progress		No	No

*CAPI research indicated the site was not a wetland. However, the complainant was advised that they could file a complaint directly with ANR if they wished to do so.

**Complaint was not investigated because of lack of response/follow up from the complainant.

Conclusion

As directed in Act 130, the Department of Public Service has implemented a protocol that addresses the stated goals in the Act, including a process and mechanism “to create a single location within State government for receipt and tracking of all complaints” regarding a potential violation of a CPG for projects certificated by the PSB under §§ 248 or 248a. CAPI received feedback from complainants that the new protocol works well, and staff have been able to assist complainants with requesting a formal proceeding with the PSB. CAPI has not yet received any reporting data about complaints received by companies, CPG holders or other state agencies. The Department anticipates that with the annual report filed in 2018 there will be sufficient complaint data to determine trends in the type, number and specific project(s) involved in complaints filed by consumers. As of now there is not enough data to draw any such conclusions. Beginning in January 2017, the Department will begin publishing on its website a summary of complaint data, as required by the Act “to increase public awareness and transparency, which may reduce the occurrence of redundant complaint filings.”

Appendix A

Purpose and History of the CPG Complaint Protocol

Purpose--An effective complaint protocol will provide clear guidance for people making complaints, improve complaint handling and response, and provide better data and reporting.

History--Under Act 130 in 2016, the Vermont State Assembly directed the Department of Public Service to establish and implement a complaint protocol as follows.

Sec. 5c. DEPARTMENT OF PUBLIC SERVICE; CERTIFICATE OF PUBLIC GOOD; COMPLAINT PROTOCOL

(a) Not later than September 1, 2016, the Commissioner of Public Service shall establish and implement a protocol for handling complaints concerning the alleged failure of a company to comply with the terms and conditions of a certificate of public good issued by the Public Service Board under 30 V.S.A. §§ 248 or 248a. The Commissioner may revise the protocol at any time to achieve a more effective and satisfactory response to complaints.

(b) The purpose of this section is to create a single location within State government for receipt and tracking of all complaints described in subsection (a) of this section. The protocol shall include a process for filing, investigating, and responding to complaints in a timely manner, as well as a procedure for tracking the number and nature of complaints received and a summary of actions taken by the Department of Public Service in response to each complaint, which information shall be aggregated and reported annually to the General Assembly beginning January 1, 2017, notwithstanding 2 V.S.A. § 20(d). In addition, the Department shall keep a record of complaints filed under the protocol. A summary of the record shall be published on a website maintained by the Department to increase public awareness and transparency, which may reduce the occurrence of redundant complaint filings. The Commissioner's protocol shall include standards and procedures for consolidating complaints of a similar nature involving the same company and procedures under which a company receiving a complaint informs the Department of the complaint and its nature and such information as the Commissioner determines is necessary to track its progress and response.

(c) A complainant shall not be required to direct a complaint to a company prior to submitting a complaint with the Department of Public Service pursuant to the complaint protocol established under this section.

(d) The Commissioner may retain experts and other personnel as identified in 30 V.S.A. § 20 to investigate complaints, and may allocate the reasonable expenses incurred in retaining such personnel to the company as provided under 30 V.S.A. § 21.

(e) The complaint protocol established under this section shall be in addition to any procedure established under 30 V.S.A. § 208. Unresolved complaints may be considered by the Public Service Board pursuant to its authority under Title 30, including 30 V.S.A. § 8(f), and Public Service Board Rules.

(f) With its report filed under this section on or before January 1, 2018, the Commissioner shall make recommendations regarding the establishment of and payment for an ongoing process for monitoring a company's compliance with a certificate of public good for the purpose of reducing the filing of individual complaints under this section.

Appendix B

CPG Violation Complaint Intake Form for Complainants

CPG VIOLATION COMPLAINT FORM

Please feel free to paste the information into an e-mail

Are you a: Complainant State agency Other

Complainant name _____

Address
(physical) _____

Address
(mailing) _____

E-mail _____

Contact phone _____

How do you prefer to be contacted by CAPI? _____

Type of project Solar Array Wind Farm Cell tower Other

Name of project and CPG number (if known) _____

Location of project _____

Proximity of the project to your home (approximate) _____

Details of complaint, **please be as specific as possible**, include dates of incidents, frequency of problems, dates that you contacted the CPG holder or a representative and what if any action the CPG holder took to resolve your issue.

Are you currently waiting for follow-up from the CPG holder on this issue? _____

What resolution are you seeking?

Appendix C

CPG Violation Complaint Intake Form for CPG Holders/State Agencies

CPG VIOLATION COMPLAINT FORM

Please feel free to paste the information into an e-mail

Are you a: CPG holder or representative State agency

Name of reporting entity: CPG holder or state agency _____

Contact person _____

Contact phone _____

Contact e-mail _____

Preferred method of contact _____

Project name, PSB docket and CPG number (if known) _____

Project location _____

Name of Complainant _____

Address of Complainant _____

Contact information for Complainant _____

Date of incident _____

Date of contact from the complainant (if applicable) _____

Details of complaint _____

What steps were taken to address this complaint? _____

Was the complainant satisfied with the resolution? _____

Was the complainant advised of next steps? _____

Appendix D

Agency quarterly reporting form

CPG Complaints Received during Prior Quarter								
Reporting entity:						Place X after correct report period		
Input Reporting Entity Name here						Report Period:	Jul-Sep	Jan-Mar
						Year:	Oct-Dec	Apr-Jun
Date Complaint Received	Complainant	CPG Holder	Project Name	Street Address/Town of project	CPG Number	Nature of Complaint	Resolution	Closing Date

Appendix E

Agency quarterly update form

<u>CPG Complaint Status Updates</u>							
Reporting entity:				Place X after correct report period			
Input Reporting Entity Name here				Report Period:	Jul-Sep		Jan-Mar
				Year:	Oct-Dec		Apr-Jun
CAPI Case # (if known)	Status Date	Complainant	CPG Holder	CPG Number	Nature of Complaint	Progress Update or Resolution	Closing Date