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TO: House Committee on Energy and Digital Infrastructure  
FROM: Brittney Wilson, Deputy Commissioner  
TJ Poor, Director of Regulated Utility Planning  
Hunter Thompson, Director of Telecommunications and Connectivity  
DATE: January 28, 2025  
SUBJECT: PSD Technical Corrections & FY27 Budget Implications Testimony

The Department of Public Service will present the following proposals for the committee's consideration:

1. Converting one limited service position to permanent (in FY27 Gov recommend)
2. Changing the cadence of the Ten-Year Telecom Plan – FY27 Budget Implications
3. Disbanding the Telecommunications and Connectivity Advisory Board (TCAB)
4. Changing the cadence and compliance of Integrated Resource Plans (IRPs)
5. Changing Act 174 of 2016 to streamline energy plan process
6. Incorporating Building Energy Code "Safe Harbor" language

The Department is also requesting Act 248a renewal but given the various bills and testimony on this subject, we are not including it in this testimony. However, we would be happy to discuss further at the committee's request.



### **1. Converting the Financial Director IV into a permanent position**

Currently, this position is limited service and the Department is seeking to make the position permanent. The language needed for this conversion is included in the FY27 Governor Recommended Budget.

**About the position:** This position will serve as the Director of the Administrative Services Division. The position will be responsible for directing and managing the operations and personnel of the Administrative Services Division, which includes a total of 9 employees. The Division, under the leadership of the Financial Director, oversees all financial and administrative operations for the Department, which includes 70 employees, \$500M in Federal Grants flowing through the Department over the next several years, and a \$12M operating budget. The Financial Director will be responsible for all fiscal functions, including budget development, auditing, internal controls, fiscal operations, special or federal program fiscal administration, as well as all administrative functions including management and execution of contracts and grants.

### **2. Changing the cadence of the Ten-Year telecom plan**

30 V.S.A. § 202d (f) dictates the adoption of a new telecom plan every 3 years.

*(f) The Department shall adopt a new Plan every three years pursuant to the procedures established in subsection (e) of this section. The Plan shall outline significant deviations from the prior Plan.*

- **Proposal:**
  - Change the cadence from every three years to every five years.
- **Rationale:**
  - Every update comes with a price tag of roughly \$500,000 (without a change the next update is due in FY27).
  - Cellular deployment of completely new tower infrastructure is relatively small. Full 248a petitions were in the single digits for 2023 and 2024.
  - Wireless technology has largely remained unchanged with advancements being evolutionary rather than revolutionary. In Vermont, 5G deployments continue to be the prevailing work being done and 6G has yet to manifest as a technology beyond basic proof of concepts for the past several years.
  - The Mobile Drive Test conducted bi-annually by the Department shows cellular improvements in a two-year interval. With the rate at which towers are approved and constructed it takes more than the current three-year cadence of the Ten-Year plan for significant improvements to be realized and evaluated.
  - The other on-the-horizon technological shift of direct cell to Low Earth Orbit (LEO) satellite has likewise not manifested into a usable or viable commercial product.
  - Enterprise providers within the state have made the migration to fiber networks. This is a newer technology with an expected lifespan of 30 years or more. The expected changes will be incremental improvements in electronics and bandwidth capability of this underlying technology.



- The state plan for consumer wired internet is dictated by ACT 71 and currently in the hands of the VCBB. The timeframe for competition of this work is more than the three-year cadence of the plan refresh and the current BEAD plan that has been approved shows close to ubiquitous fiber to the premises deployment happening in the coming years.
- The cost to perform a statistically significant survey and corresponding engineering study are a large financial burden which often finds similar responses and recommendations when done on a three-year cadence. A five-year cadence would allow the changes in the landscape to be reflected in the responses from the public.

### **3. Disband the Telecommunications and Connectivity Advisory Board (TCAB)**

- **Proposal:**
  - The Department recommends disbanding the TCAB.
- **Rationale:**
  - The Vermont Telecommunication Connectivity Advisory Board TCAB was established in 2015 and charged with making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties. It has been primarily dedicated to the expansion of wired internet service to all addresses across the state.
  - Act 71 of 2021 created the Vermont Community Broadband Board (VCBB). It is the purpose of the VCBB and Vermont Community Broadband Fund to support policies and programs designed to accelerate community efforts that advance the State's goal of achieving universal access to reliable, high-quality, affordable, and fixed broadband.
  - The TCAB has met twice since 2021.
  - The TCAB chair has suggested they be disbanded in the Telecom Annual Report for the past number of years.
  - Given the TCAB's primary mission has been supplanted by that of the VCBB and the VCBB has been given control of the Connectivity Fund to help achieve that mission, the TCAB is a redundant entity.

### **4. Integrated Resource Plans**

- **Proposal:**
  - **Cadence Adjustment:** Modify the requirement for municipal and cooperative utilities to complete an Integrated Resource Plan (IRP) from every three years to every five years, with an interim "status report" to ensure no major industry and/or utility changes necessitate revision.
  - **Guidance Compliance:** Require approval of IRPs by the Commission, with direct reference to guidance published by the Public Service Department.



- **Rate Increase Condition:** If an IRP is not approved, municipal and cooperative utilities will lose the ability to request a "streamlined" regulatory process where utilities can request a 3% rate increase without undergoing a formal process. Currently, 30 V.S.A. §218 allows for this increase without significant additional conditions. It is also proposed to increase the threshold of this increase to 4%.
  - **Innovative Pilot Technical Fix:** Fixes an issue where an already authorized innovative pilot is disrupted while awaiting approval for a more permanent tariff. This will allow the innovative pilot to continue until a decision on a permanent tariff is made.
- **Rationale:**
    - IRPs are valuable for ensuring utilities understand and plan for energy supply, renewability, resource adequacy, and weather uncertainties – necessary for mitigating risk and reducing costs for ratepayers. In addition, IRPs help ensure utilities are operating and maintaining their systems at least cost to ratepayers. Without IRPs, many utilities are not likely to plan their systems as effectively, with negative consequences for ratepayers.
    - However, IRPs are resource intensive. The IRP process can take up to 18 months to prepare, with an additional 9 months for regulatory processing, keeping utilities in a constant regulatory cycle. Changing the cadence of IRPs lessens regulatory burden while making IRPs more meaningful.
    - The Department currently publishes IRP guidance periodically as part of the Comprehensive Energy Plan (CEP). IRPs must be consistent with the CEP, but the "guidance" is not always considered, leading to lengthy discussions and back and forth with utilities that takes significant time. Proposed language clarifies that the guidance is part of the CEP, giving it more weight in the Public Utility Commission approval process but maintaining ultimate decision-making authority with the Commission.
    - Utilities are currently required to submit IRPs every three years but only need approval if they are proposing a §248 petition related to infrastructure construction and in a few other instances. Such §248 proposals in practice, however, are no longer submitted by utilities and instead are being pursued by merchant developers.
    - Extending the IRP cycle to five years would necessitate a check-in at the 3-year mark to update on the implementation of the IRP and check in on the decision-making process given any industry changes/trends.



## **5. Changes to Act 174 (2016)**

- **Proposal:**
  - Require regions to submit their new draft plans to the PSD concurrently with their submission to the Land Use Review Board, eliminating the need for a separate hearing.
- **Rationale:**
  - Act 174 of 2016 established a process for Regional Planning Commissions to develop energy plans, obtain a determination from the PSD that these plans align with the Comprehensive Energy Plan (CEP) and PSD guidelines, and thus receive "substantial deference" in energy facility siting decisions before the Public Utility Commission (PUC). This proposal aims to make administrative changes to the Act 174 process to:
    1. Ensure that towns and municipalities do not experience gaps in having an approved energy plan, thereby maintaining their ability to receive substantial deference.
    2. Streamline public feedback by consolidating it with the adoption of broader regional or town plans, rather than conducting separate processes.

## **6. Building Energy Code "Safe Harbor" Language for Builders**

- **Proposal:**
  - For projects where a 2020 RBES certificate was filed during the window between issuance of the Governor's Housing EO and the effective date of the Department's updated Building Energy Code Rules, those projects should be deemed in compliance with 30 V.S.A. § 51 and § 53 and should not be subject to state enforcement *or private claims* solely on the basis that they followed 2020 instead of 2024.
- **Rationale:**
  - Fairness for builders who build to 2020 code and are unaware of potential legal concerns.
  - Market stability: Buyers, lenders, and insurers need to know that homes built in this period aren't going to be subject to potential litigation.

