

February 5, 2016

Mr. Wayne Jortner  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620

**RE: Comments on Draft: An Evaluation of Ratepayer Advocate Structures Pursuant to  
Act 56, Section 21b**

Dear Mr. Jortner,

Following are comments on the draft report An Evaluation of Ratepayer Advocate Structures Pursuant to Act 56, Section 21b. Thank you for this opportunity.

I would wish to see a more earnest engagement with the matters raised at the Hearing on November 18, 2015 and my subsequent written comments of November 30. The report artfully disarms criticisms concerning potential for conflict of interest, limited transparency, and consistency of Department position with that of regulated utilities (regulatory capture) by suggesting that the statutorily defined role of the PAD and Public Service Department (PSD) is poorly understood by the critic or overlooks the virtues and efficiencies of the current structure. Considerable space is devoted to 'straw man' arguments (see for example p20, 21 re: public polling) which are arranged in defense of the status quo.

The report observes that the complexity of regulating utility and telecommunication facilities can sometimes act as a barrier to meaningful participation for many classes of consumers (p1). Yet the report fails to acknowledge that municipalities are affected parties with their own legitimate processes for establishing public interest (recognized in statute and case law) and that as a class, municipalities are effectively locked out of PSD proceedings and only ever party to PAD and PSD deliberations informally.

The report also contends that the public outreach process used in the drafting and approval of the Comprehensive Energy Plan (CEP) is adequate to defend against any criticism that an individual positions reached by the PAD and PSD before the PSB for the issuance of a Certificate of Public Good (CPG) is in conflict with the public interest. The CEP *may* represent the public interest as framed by the purposes and goals of the plan, but here the 'public good' is set at the scale of the entire state and all utility and telecommunications facility customers.

The reality of utility and telecommunications infrastructure development is that there is almost always local impacts. Such impacts may be much more than mere 'inconvenience' (p22). Municipalities with legitimate land use planning controls should be shown more deference in PSB proceedings. In recognition of the cost and complexity of the PSB's arcane procedures the PAD should facilitate municipal participation in CPG dockets.

Given rapid changes in the landscape of renewable energy generation and telecommunications the Executive Branch has an interest in ensuring implementation of the CEP and telecommunication policy is *seen* to be legitimate, rather than coercive or dismissive of appropriate objections at the local scale. While I appreciate that there is a great deal of legislative activity on the topic of renewable energy facility siting in the current session I find it regrettable that the draft report fails to illuminate the issues at all. As drafted the recommendations of the report don't go far enough in addressing the concerns raised by me and others. Although renewed commitments to transparency and outreach are always welcome.

Thank you for this opportunity to comment.

Sincerely,

A handwritten signature in blue ink that reads "Rod Francis". The signature is written in a cursive, flowing style with a prominent underline.

Rod Francis  
Planning Director