

STATE OF VERMONT  
DEPARTMENT OF PUBLIC SERVICE

IN RE: Various Forms of  
Ratepayer Advocate Offices

Public Hearing held before the Vermont  
Department of Public Service, at the Shelburne Town  
Offices, Shelburne, Vermont, on November 17, 2015,  
beginning at 6:30 p.m.

P R E S E N T

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Comm. Christopher Recchia

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1                   COMM. RECCHIA: Good evening. I think  
2 we might start. It's 6:30. We want to start on  
3 time, and thank you all for coming this evening. I'm  
4 Chris Recchia. I'm the Commissioner of the Public  
5 Service Department. And we represent -- we represent  
6 the public in proceedings before the Public Service  
7 Board. Would someone be willing to close that door?  
8 Thank you. I hope if anyone else wants to come in  
9 they will recognize we are right here.

10                   Just briefly on that, on that, we, you  
11 know, the best way to think of it is like the Public  
12 Service Board being a court and we being the  
13 prosecutors on behalf of the public in terms of  
14 representing the public interest for the State of  
15 Vermont and ratepayers in ratepayer cases.

16                   And what -- last year the legislature  
17 asked us to do a study of various models that existed  
18 around the country in terms of ratepayer advocate and  
19 public advocacy and to do a report on those, and  
20 included in that is an assessment of public comment  
21 like we are getting here. We have done two other  
22 meetings prior to this, and we are doing one more  
23 later this week. And also as Wayne will talk to you  
24 about interviews that we have been doing.

25                   And so you know, we are looking for

1 ways to improve. We are always looking for better  
2 ways of doing our work in the public service, so I  
3 appreciate you guys taking the time tonight to bring  
4 us your comments. I'm going to turn it over to Wayne  
5 Jortner who is -- who is fairly new with us. So in  
6 that respect he kind of provides a fresh look at  
7 this. And he's been kind of heading up the review.

8 So Wayne, over to you.

9 MR. JORTNER: Thank you. Thank you all  
10 for coming. Really appreciate it, because we need  
11 input from the public in order to write the report  
12 that the legislature is looking for. And the statute  
13 that asked us to do this report specifically asked us  
14 to interview experts in the field of utility  
15 regulation, including consumer advocates, and  
16 executives of utilities, and to hold at least two  
17 public hearings around the state. We are going to  
18 hold four altogether. This is the third one we have  
19 done so far. So what we hear from you is going to be  
20 carefully considered, and will probably make its way  
21 in some form into the report that we are going to  
22 write to the legislature to at least represent what  
23 we hear from the public and how we analyze it.

24 One of the reasons I think that I'm  
25 doing this report is because I've -- this is actually

1 the third utility consumer advocate office I've  
2 worked at in my career. I've worked in Maine, New  
3 Hampshire and now Vermont, so I'm slowly heading  
4 west. Maybe someday I'll make it to California, but  
5 that will be a few hundred years at this rate.

6 So and I've also worked very closely  
7 with the national association of all of the utility  
8 consumer advocates in all of the states in the  
9 country doing work at the federal level because we  
10 all -- they all band together to intervene at the  
11 Federal Communications Commission, the Federal Energy  
12 Regulatory Commission, because individual states  
13 don't have the resources to do that. And that's  
14 where a lot of what affects consumers comes from  
15 these days, from the federal government.

16 So my interaction with consumer  
17 advocates in all the different states gives me some  
18 perspective about how to compare the structure of  
19 utility consumer advocate offices and what's good and  
20 what's bad. And the legislature in this bill Act 56  
21 specifically asked us to compare the structures of  
22 consumer advocate offices and mentioned -- talked  
23 about the pros and cons of each type of structure.  
24 It turns out that Vermont does have a pretty unusual  
25 structure compared to all of the others. Each one is

1 different from the other. There is no two that are  
2 exactly alike. But Vermont is unusual primarily  
3 because it's a bigger organization than almost any  
4 other in the country, and it combines staff of --  
5 that does public advocacy with a number of other  
6 divisions within the department that do other things.

7 Now I'll just read you a quick list of  
8 what other things the department does. We obviously  
9 -- we represent the public before the Public Service  
10 Board and try to represent the public interest there.  
11 The department also has a division that does long-  
12 range planning for the state's energy and  
13 telecommunications needs. The department is charged  
14 with ensuring that all Vermonters share in the  
15 benefits of modern communications through the Vermont  
16 Telecommunications Plan, and that includes trying to  
17 deploy broadband more thoroughly throughout the state  
18 and cell phone service throughout the state, advanced  
19 services that are often lacking in rural areas  
20 everywhere in the country and certainly in Vermont.

21 We promote energy efficiency. So we  
22 are -- we tend to promote solar and wind and other  
23 natural -- renewable sources of energy in terms of  
24 generation. We administer certain federal energy  
25 programs. We have a special division that resolves

1 individual consumer disputes with utilities, and we  
2 are charged with informing the public about related  
3 matters. And we don't do it any more but we have  
4 actually also been charged with administering  
5 contracts directly for the purchase of power on  
6 behalf of the state. So Vermont from time to time  
7 has actually been a direct contractor in the power  
8 markets. I don't know if that --

9 COMM. RECCHIA: It actually -- we do  
10 still have a little bit from New England power pool.  
11 We do still -- and we just -- we have that under a  
12 long-term contract distributed to the Vermont  
13 utilities at cost.

14 MR. JORTNER: And I'll just very  
15 quickly read the two sentences in the statute that  
16 defines what this hearing is about so it's clear  
17 without my interpretation. This is exactly what the  
18 legislature said which is it says: The Commissioner  
19 of Public Service shall evaluate the pros and cons of  
20 various forms of ratepayer advocate offices and  
21 report on or before December 15, 2015, to the House  
22 Committee on Commerce and Economic Development and  
23 the Senate Committee on Finance with any  
24 recommendations on how to improve the structure and  
25 effectiveness of the Division of Public Advocacy

1 within the Department of Public Service.

2 And second: The Commissioner shall  
3 study various forms of ratepayer advocacy offices and  
4 assess them in terms of their structure and reporting  
5 requirements, whether and how their independence is  
6 ensured through structure and budget, and their  
7 effectiveness in representing residential ratepayers  
8 in regulatory proceedings.

9 And finally, how ratepayer benefits,  
10 specifically rate savings, vary with differing  
11 ratepayer advocate structures.

12 I'll just admit right up front I'm not  
13 sure that the structures of these offices are really  
14 what accounts for more or less ratepayer savings.  
15 Because you could have excellent ratepayer advocates  
16 in any structure and you could have -- you could  
17 potentially have bad ones in any structure. So I  
18 don't think -- I don't know that structure is really  
19 the key factor, but the legislature has asked us to  
20 examine that issue, so that's certainly what we are  
21 going to do.

22 But in this report we are going to  
23 discuss every factor that we think is relevant to how  
24 we could be most effective in representing customers  
25 of utilities and the public interest in general. In



1 certain areas of regulatory statutes it talks about  
2 ratepayer interests. In other parts of the statutes  
3 it talks about the public interest or the interest of  
4 -- the interest of the public. There are various  
5 phrases used, and they have slightly different  
6 meanings.

7 So our job it is to try to figure out  
8 exactly what -- who we are supposed to be  
9 representing, and do it as effectively as we can. So  
10 in rate cases, you know, in cases that are  
11 specifically about rates that are before the Public  
12 Service Board I would say our primary interest is in  
13 minimizing rates, you know, trying to attack all of  
14 the accounting issues so that the Public Service  
15 Board will come up with rates that are as low as  
16 possible but still consistent with high quality  
17 utility service. So by depriving utilities of rates  
18 they need, you're not going to get very good service  
19 and that wouldn't be in the public interest.

20 But within the range of high quality  
21 utility services our job is to minimize rates in rate  
22 proceedings. Of course there is all kinds of other  
23 proceedings before the Public Service Board that  
24 don't necessarily involve rates primarily. It might  
25 involve policies about renewable energy or about

1 deployment of advanced services. There is all kinds  
2 of proceedings before the Board, so we have to figure  
3 out what the public interest is, and sometimes that's  
4 the state's interest in general, and sometimes that's  
5 looking at certain classes of ratepayers such as  
6 residential ratepayers.

7 There is a relatively new part of the  
8 statute that charges us with paying special attention  
9 to classes of customers that are not otherwise  
10 represented before the Public Service Board. Because  
11 our job is to give a voice to people that can't be  
12 there, and that's most members of the public. They  
13 don't have the resources to be at the Public Service  
14 Board and wouldn't want to have to expend the time  
15 and resources it takes to litigate a hearing before  
16 the Public Service Board or provide expert evidence  
17 before the Public Service Board.

18 So our job is to represent all the  
19 voices out there that really have no practical way of  
20 being present. Certainly utilities are there with  
21 their lawyers and lobbyists, and large industrial  
22 customers are there with their lawyers, and other  
23 special groups might be as well, but the general  
24 public who really pays all of the rates that fund all  
25 the services that we enjoy those people -- people who

1 really do the expenditures -- who make the  
2 expenditures are not there. And that's why just  
3 about every state has some version of a public  
4 advocate specifically for utility matters.

5 And the department here, as I said, we  
6 have a special division that does that, the Division  
7 of Ratepayer Advocacy, Public Advocacy rather. So  
8 that's a group of attorneys that do this. They have  
9 to understand who their client is, is their client  
10 the Commissioner, is their client the general body of  
11 ratepayers, is their client every citizen of the  
12 state who pays taxes and has an interest in the  
13 environment and in renewable energy and as well as  
14 rates. So it's not like a lawyer who has a client  
15 telling them exactly what they want to do. It's a  
16 little more complicated when you represent the public  
17 to figure out exactly what positions to take. And  
18 that's one reason that controversy arises, and some  
19 people aren't always happy with every position that  
20 the department takes in every case. And that's  
21 probably what generates the request to do reports  
22 like this, to explain to the public and explain to  
23 the legislature how we do our job, and to make sure  
24 we are doing it effectively.

25 So with that, and again with the

1 emphasis on analyzing the structure of our office,  
2 really interested in hearing what everybody here has  
3 to say. It's best not to spend the time tonight  
4 talking about a particular case where you didn't  
5 agree with the department's position. You're welcome  
6 to say whatever you like, and we are happy to listen  
7 to and incorporate anything we hear. But the point  
8 of the report we are doing is to analyze our  
9 structure and how we could be more effective or to  
10 show how we are being as effective as possible as  
11 opposed to why we took a certain position on a  
12 particular case.

13 So with that, did everybody who wants  
14 to speak sign the sign-in sheet yet? If you want to  
15 speak, I would appreciate it if you signed the sheet.  
16 That's only so we can determine how much time we can  
17 allow for each person because we only have this room  
18 until 9 o'clock.

19 COMM. RECCHIA: 8 o'clock, I think. I  
20 thought it was 8, but we will spend as much time as  
21 you need.

22 MR. YANTACHKA: Does that include  
23 asking questions or --

24 COMM. RECCHIA: We will get there. The  
25 other thing I should mention, and maybe we are going

1 to Wayne, but you'll find that we are mainly in  
2 listening mode today. If you have questions, we will  
3 be happy to try and answer them as best we can, but  
4 we are trying to get your feedback on where things  
5 are, so we won't likely respond. This isn't going to  
6 be a debate. We are not going to challenge your  
7 points of view even if we disagree with them. But we  
8 just really are here to listen and take notes and to  
9 figure that out.

10 Again, if there are questions about how  
11 we work, I'm happy to try and answer those. So  
12 that's really the main point of this so as to hear  
13 what you have to say, not to continue to talk.

14 So I did think -- I thought this was  
15 6:30 to 8, but you have until 9?

16 MR. JORTNER: I thought it was 9.

17 UNIDENTIFIED SPEAKER: It's until 9.

18 COMM. RECCHIA: We will take whatever  
19 time you guys need which means we really don't have a  
20 time limit for the number of people that are here.  
21 If you could keep it maybe to five minutes or less  
22 for the first time, and we can come back to you if  
23 you have more to say.

24 MR. JORTNER: I only see about six or  
25 seven names on that list. So if you want to speak,

1 it's best if you do sign up, just so we know how many  
2 people will be speaking.

3 COMM. RECCHIA: I'll bring it over to  
4 you.

5 MR. YANTACHKA: Ask questions.

6 MR. JORTNER: And just to follow up  
7 what Chris just said, if you say something and we  
8 don't respond, it's not because we didn't hear you or  
9 we didn't consider it a serious matter to consider.  
10 It's just that we don't have time for us to do a lot  
11 of explaining or talking tonight. It's really for us  
12 to hear from you. So --

13 COMM. RECCHIA: Okay. So I think we  
14 will call through the names just in order, and if  
15 when you come up you could spell your name for the  
16 court reporter. That would be really helpful.

17 So Rebecca Foster is first up.

18 MS. FOSTER: So because there is not a  
19 document to respond to, the main intention of what  
20 I'm about to say is to tell a story of why I think  
21 it's so important that you're doing what you're  
22 doing. And while it's not -- it's not talking about  
23 the policy that you've taken per se, but it's using  
24 that as an example --

25 COMM. RECCHIA: Sure.

1 MS. FOSTER: -- for why I believe this  
2 is very important. Can everybody hear me?

3 UNIDENTIFIED SPEAKER: Yeah.

4 MS. FOSTER: No? So this is my story.  
5 In March 2013 I went to a Public Service Board  
6 hearing in Hinesburg about a pipeline I had heard  
7 about. I was quickly confused, however, because I  
8 didn't understand how the public knew so little about  
9 this pipeline. And yet it was already thoroughly  
10 planned out supposedly.

11 It was clear that people had been  
12 working on this out of the public eye for a long  
13 time. I saw a lot of upset people that evening.  
14 Landowners who had been threatened with eminent  
15 domain in their first visit by the gas company.  
16 People angry at the irresponsibility of this green  
17 state putting huge and now twice as huge resources  
18 into fossil fuels when we are in a terrible climate  
19 crisis.

20 So given that the vast majority of  
21 Vermont speakers that night were opposed to the  
22 pipeline, I wondered where does it go from here. Who  
23 will represent our point of view to the Board? We  
24 were told explicitly that night, I remember this,  
25 that the Department of Public Service existed

1 precisely to listen to and represent the public, much  
2 like what you just said before. So good. I was  
3 ecstatic. Somebody was going to advocate for  
4 Vermonters. But it didn't take long to realize that  
5 the department had actually been devising the  
6 pipeline plans with the gas company and was in its  
7 position on the issues barely distinguishable from  
8 it. If their positions are indistinguishable, then  
9 among other things we have a problem of redundancy.

10 After what I've seen for almost three  
11 years now it seems to me a colossal waste of taxes to  
12 pay state officials to pave the regulatory way for a  
13 utility. Why are we the taxpayers, paying for DPS  
14 yes men while they disregard us? And in what world  
15 does a two billion dollar Canadian company need us to  
16 subsidize advocacy for their profit? As my 10 year  
17 old would say, that's messed up.

18 In your draft plan for the improved  
19 public advocate's office I will be looking for a  
20 completely independent office that does independent  
21 research and works for the public, rather than  
22 bending to the will of the utilities and the  
23 Governor. More hearings on the draft will be  
24 required, however, and it will take sometime to  
25 implement the changes once they are decided on. So



1 in the meantime we have an open case that will not  
2 benefit from these future improvements.

3 The department -- I don't know, it  
4 seems harsh to say bungled, but I don't feel like it  
5 has served the public well in this case, and so  
6 independent counsel should be appointed. I would  
7 like the department to request the Board who needs to  
8 actually issue the determination, the department to  
9 request the Board to appoint independent counsel for  
10 the Addison Natural Gas Project.

11 And I would like to add quickly that  
12 just a few days ago the Center for Public Integrity  
13 came out with a study on each state in the nation,  
14 and Vermont scored last in ethics enforcement  
15 agencies, 48th out of 50 in executive accountability,  
16 and we got an F in public access to information.

17 These figures have new meaning in the  
18 context of this discussion, so I dearly, dearly hope  
19 that Vermont can do better. And thank you for  
20 working on it.

21 COMM. RECCHIA: Thank you.

22 MR. JORTNER: Thank you.

23 COMM. RECCHIA: Thanks. Bobbie  
24 Carnwath.

25 MS. CARNWATH: C-A-R-N-W-A-T-H. I sort

1 of share Rebecca's frustration with not knowing  
2 exactly what we were addressing tonight, but I did  
3 prepare some comments and hopefully they are somewhat  
4 on target.

5 The mission of the Public Service  
6 Department as stated in its Web site is ambitious.  
7 It is to serve all citizens of Vermont. This goal's  
8 obviously flawed in its simplicity. I think we all  
9 know the old saying about trying to equitably serve  
10 all the people all of the time. It doesn't and can't  
11 work. Recognizing that paradox before we talk about  
12 restructuring the department to achieve an  
13 unachievable goal perhaps we should reexamine its  
14 mission.

15 There are actually two separate areas  
16 of concern that need to be addressed by the  
17 department. First what is the definition of the  
18 public good, and how can that best be served. And  
19 second, how do we help individuals whose rights and  
20 welfare are compromised in the course of benefiting  
21 others.

22 The DPS is an agency within the  
23 executive branch with a Commissioner appointed by the  
24 democratically-elected Governor. In a perfect world  
25 it would follow that the will of the people is

1 therefore being represented. However, with politics  
2 comes influence of money, corporations and special  
3 interests. It's only common sense to have an agency  
4 that impacts big businesses be as isolated as  
5 possible from the influence of money. Perhaps it  
6 should be a stand-alone agency with strict financial  
7 disclosure requirements and whistle-blower  
8 protection.

9 One division of that agency would be  
10 tasked with information about what the people want,  
11 what the actual public believes is in the public  
12 interest. This is complicated as we move from the  
13 focus on cheap, to focusing on clean, renewable,  
14 sustainable and job creating. Another division of  
15 that agency would attend to the people whose safety  
16 or budgets or property rights are affected by serving  
17 the interests of the majority of Vermonters. These  
18 individuals and groups need assistance and  
19 protection.

20 I would just like to close by saying  
21 that three years ago I wouldn't have known or cared  
22 an iota about how the DPS is structured. But  
23 watching the VGS pipeline expansion proposal play out  
24 as an elaborate dance performance by VGS and the DPS,  
25 choreographed somewhere off stage has opened my eyes.

1                   When I was in the hearing room on  
2 several occasions this year listening to Louise  
3 Porter and Asa Hopkins read from a script that posed  
4 no serious challenges to VGS's testimony while  
5 ordinary citizens were volunteering their time to  
6 prepare and formally present in-depth analysis of the  
7 merits of the VGS project, I realized that the system  
8 is broken. I'm heartened that the legislature has  
9 recognized the need for this inquiry, and I hope that  
10 the department will use this opportunity to explore  
11 solutions, including some that might be out of the  
12 box so that it can provide a meaningful service to  
13 the public. Thank you.

14                   COMM. RECCHIA: Thank you very much.

15                   MR. JORTNER: Thank you very much.

16                   COMM. RECCHIA: May we have a copy of  
17 that, or do you --

18                   MS. CARNWATH: You may. I was going to  
19 E-mail it.

20                   COMM. RECCHIA: If you want to E-mail  
21 it, that's fine.

22                   MS. CARNWATH: We will do it. In case  
23 I forget, I'll put it in his ear and before his eyes.

24                   COMM. RECCHIA: We will talk about how  
25 to send written comments shortly. We can do that.

1 Thank you.

2 Barrie Bailey.

3 MS. BAILEY: So you asked about  
4 structure. And structure is what first hit me when I  
5 began to be aware of public service boards from the  
6 time I was a youngster growing up in another state.  
7 There were often public service board hearings for  
8 the public as advocates.

9 When I became aware of our Public  
10 Service Board the first thing that struck me was that  
11 it had so much relationship with the Governor and  
12 that it wasn't really an independent board. So I  
13 really feel that there needs to be a mechanism where  
14 the Board is not appointed by the Governor and does  
15 not have to report to the Governor. I think that  
16 right away that gives someone a feeling that it's  
17 going to be more fair for everyone.

18 I hear you saying that it needs to be a  
19 voice for the people. What I've seen in the hearings  
20 for the gas pipeline, and I haven't been to some of  
21 the other hearings for the communications industry  
22 and such, is that I felt there was an involvement  
23 with advocacy for the utility industry rather than  
24 giving a voice to the people of Vermont. It was sort  
25 of more the experts and the policy makers and the

1 industry rather than something coming from the  
2 people. I feel it needs to serve the public, not  
3 just the ratepayers, but also the landowners who may  
4 be affected by an installation and local towns who  
5 also have worked countless hours, year after year, in  
6 looking carefully at their towns as far as siting for  
7 utilities, use for utilities, and where they would  
8 best fit in with their towns.

9 And when I say these decisions that  
10 affect ratepayers and landowners and local towns that  
11 are affected by these decisions, I'm speaking of all  
12 the utilities, phone, gas, electric, and Internet and  
13 possibly railroads, I don't know if you do regulate  
14 -- regulatory work with railroads or not.

15 COMM. RECCHIA: No.

16 MR. JORTNER: We don't.

17 COMM. RECCHIA: We used to. That's  
18 when we started a hundred years ago, and I feel like  
19 I was there but I wasn't. But it has evolved over  
20 time and the Federal Transportation Administration  
21 does railroads now.

22 MS. BAILEY: Okay. So I would urge you  
23 to make it local, the Vermont way. Not some  
24 overarching statewide goal of good for the others  
25 somewhere, but good for the local, the rate owners,

1 the landowners, the towns. Thank you.

2 COMM. RECCHIA: Thank you very much.

3 MR. JORTNER: Thank you.

4 MR. LARKIN: Do you mean the department  
5 or the Board?

6 MS. BAILEY: Department.

7 COMM. RECCHIA: Can do that.

8 MS. BAILEY: The public advocate.

9 MR. LARKIN: You said board several  
10 times.

11 COMM. RECCHIA: Charlie.

12 MS. BAILEY: I'm wrong.

13 COMM. RECCHIA: I get it. And I took  
14 your comments as the Board appointments as well,  
15 right, we are doing the department. But I took your  
16 comments regarding the Board appointment as well. So  
17 I get that. Thank you very much.

18 MS. BAILEY: Thank you.

19 COMM. RECCHIA: Charles Larkin. You're  
20 up.

21 MR. LARKIN: Thank you for the  
22 opportunity to make some comments on this at this  
23 hearing. My name is Charles Larkin, L-A-R-K-I-N.  
24 I'm a retired state employee. I think it was close  
25 to, what was it, 35 years with the state, 30 years of

1           it as the Telecommunications Engineer for the  
2           department.

3                         And I feel that the department has not  
4           been independent of and has associated itself too  
5           closely with the utilities. When I first came here  
6           under Judge Gibson we were very public advocate  
7           directed. And I don't think that anybody in this  
8           state or job that you now hold and the people like  
9           Wayne, I don't think any of you said, gee, screw the  
10          consumer, let's represent the public -- represent the  
11          companies. But I do think that the Governor might  
12          have leaned a little bit by giving the utilities a  
13          little more consideration once in a while and it  
14          slowly over the years shifted without anybody really  
15          noticing it.

16                        So the point has come as these  
17          witnesses have said, and I have noticed with the MOUs  
18          and memorandums of understanding and the contract  
19          issues signed, and the kind of attitude of the  
20          witnesses you put on cases, you really are  
21          representing the utilities involved. I think what  
22          you believe is that you have figured out what's best  
23          for the people, and you're going to help the utility  
24          get it because then it's for the best of the people.  
25          But I think you're wrong. The utility gets taxpayer



1 money, ratepayer money, to hire all the specialists  
2 it wants, and they present their case as they should  
3 with bias, hopefully no prejudice, before the Board.  
4 You should be taking the ratepayer and taxpayer money  
5 and representing the people independent of the  
6 utility. If for any reason you don't feel you can do  
7 that, you should ask, one witness said, request that  
8 the Board appoint a public advocate to work on that  
9 case.

10 I remember one telephone company case  
11 where there was a hotel/motel were allowed to be  
12 parties and three different VPIRG-type organizations,  
13 welfare rights, and I forget the third one, were all  
14 there, so an attorney was appointed, and that  
15 attorney said he represented the residential  
16 ratepayer as he called them, the Winooski cave  
17 dwellers, the people in the three, and four, and  
18 five-story buildings and condos. It was already  
19 other people there. I think that's the problem that  
20 you have.

21 You should be totally independent. I  
22 would prefer -- I think you mentioned in Maine that  
23 we had a totally independent advocacy division, and  
24 it wouldn't be simply appointed by the Governor, and  
25 they would have fun deciding who would run it then,

1 but it would be totally independent.

2 But I would like to bring to your  
3 attention an example of how I think you've been  
4 inadequate. Was in a recent Duncan Cable Television  
5 renewal of a Dover franchise. They got their  
6 franchise in 2002. For 11 years. And at 2013 it ran  
7 out. Somebody noticed it sometime last year, and  
8 they decided to file. So it's already two years  
9 running Dover without a certificate for the right to  
10 be in business. And I think the Board and the  
11 department were asleep at the switch. They didn't  
12 know that somebody's franchise had died and it hadn't  
13 been renewed.

14 And a problem with the department in  
15 this renewal is that -- two fundamental areas. One  
16 as a lot of Board rules and state statutes, which  
17 anybody should be in compliance with if they are  
18 going to get a franchise or a renewed franchise, and  
19 it looks like the annual notice is not in compliance,  
20 the Board -- the department itself has said for  
21 several years they have been trying to get the  
22 company to file a compliant line extension policy,  
23 and he hasn't seen fit to do it yet. If you want to  
24 know whether or not you are in compliance with  
25 quality of construction and the NESC, National

1 Electric Safety Code standards, you just don't say  
2 hey, Mr. Duncan, are you in compliance? Oh, yes.  
3 And then the department represents that's sufficient  
4 assentation to allow it to go through. They went  
5 through -- I went through the entire testimony on  
6 this issue or these issues. And again and again  
7 assertions unsupported by facts were accepted by the  
8 witness and then passed on as testimony. Worse,  
9 several times they didn't bother to make an opinion.  
10 They just -- what about this. They said that's about  
11 this subject and the testimony stopped. Like you  
12 missed one question there. Well what do you think,  
13 department? They didn't always answer that. And  
14 there is the bills. CAPI found out that their name  
15 and address and telephone number wasn't on the bill  
16 and out of compliance. They didn't say in the order  
17 -- the testimony what they should do about that. And  
18 he doesn't accept proof of creditworthiness for his  
19 deposits. And he kind of said, well I guess I can do  
20 that. But it didn't make it clear that that was what  
21 they were going to do.

22 And there was also all the things like  
23 the seven towns. The Board itself in its order in  
24 the preceding Docket in the order, said you shall  
25 file within 120 days, I think it said, seven

1 additional neighboring towns. What happened to that?  
2 That should have been addressed by the department.  
3 They should have said he did file or he didn't file  
4 or he did and it fell apart because he claims he  
5 filed it. So but there is no documentation. That's  
6 where the issue is. He had lots of areas -- the  
7 department did, the number of customers per node on  
8 the fiber. Number of customers per service truck,  
9 per customer service representative. Those are nice  
10 numbers. What are state and national averages? What  
11 does the National Electric -- National Cable  
12 Television Association have to say about that? They  
13 could tell you what are reasonable standards, but  
14 there was no mention of that. Maybe he has more than  
15 you need. But there was no documentation to prove  
16 that.

17 The amount for Marlboro, Stratton and  
18 Wardsboro, five or six E-911 maps totally unreadable.  
19 How can any person not working for the department or  
20 the Board be able to look at that information and  
21 make sense of it? He's talking about putting set top  
22 box on with interactive guide, something that all the  
23 AMOs want, and he's evaluating it, but you didn't ask  
24 him for details of his evaluation and what he expects  
25 and when to do something about it. Make a decision.

1           You people -- the department asked stakeholders to  
2           come to a focus group. You don't say exactly who  
3           were the stakeholders, you just kind of left them by  
4           categories. You didn't say exactly how you  
5           determined which ones to write or call or E-mail.  
6           You didn't say how you contacted them or they didn't  
7           show up -- all of them didn't show up. You sent a  
8           survey out. You don't say what it was. You don't  
9           have a copy of the survey. These kinds of things  
10          that should have been in the filing, the department  
11          should have done it.

12                         Duncan talked about he had diverse  
13          route redundancy in his fiber coax plant. It would  
14          have been nice if we had those maps showing that. So  
15          you could see whether we really had it and how  
16          valuable it was. And I think that gives some idea of  
17          how you failed in this one case.

18                         The other witnesses have said you  
19          pretty much failed them in the gas case. I think  
20          that's all I have to say. Thank you for your time.

21                         COMM. RECCHIA: Thank you, Charles. We  
22          appreciate it. Richard Dunne.

23                         MR. DUNNE: I didn't fully grasp the  
24          situation, so you can skip me.

25                         COMM. RECCHIA: Okay, well I think we

1 will have time if you change your mind.

2 MR. DUNNE: Sure.

3 COMM. RECCHIA: Andrew looks like  
4 Simon.

5 MR. SIMON: Simon.

6 COMM. RECCHIA: Simon. Thank you.

7 MR. SIMON: Hello. My name is Andrew  
8 Simon. S-I-M-O-N. I didn't really prepare remarks  
9 for tonight, but I feel like I've had a chance to  
10 observe the Department of Public Service in a  
11 specific case. You asked us to analyze the structure  
12 of the public advocacy. I have to consider the case  
13 of the Vermont Gas pipeline as the case study that I  
14 work from, because I really haven't observed DPS over  
15 years and years and years, but I have over several  
16 years watched DPS performance in this particular  
17 case.

18 I feel like DPS as several other people  
19 have already said has not effectively fulfilled its  
20 role as public advocate. I understand that the  
21 public is an amorphous body and that there are  
22 different views within the public. But at the same  
23 time, I have been to public hearings held by the  
24 Public Service Board, I have been to information  
25 meetings that Vermont Gas has set up, I have been to

1 street demonstrations where speakers have spoken out  
2 about this issue. At none of those events, whether  
3 official event or informal event, have the majority  
4 of the public speaking been in favor of the Vermont  
5 Gas pipeline. And yet each time that the Department  
6 of Public Service issues a report to the Public  
7 Service Board on this matter, it has invariably been  
8 in support of continuing with the pipeline.

9 There have been a variety of different  
10 justifications for that. But essentially what I read  
11 when I read the report or read a report of the  
12 report, are that well there has already been this  
13 much progress so far on the pipeline. It doesn't  
14 make any sense or it makes no economic sense to stop  
15 construction of the pipeline.

16 I've heard testimony from a broad range  
17 of public on this issue, whether it's a climate  
18 change issue and the fallacy of building a very  
19 expensive infrastructure that locks us into fossil  
20 fuels for decades ahead, when it's very clear that  
21 that's not the direction we need to go in. Whether  
22 it's from a safety point of view either by landowners  
23 or by people who are concerned about the safety of  
24 natural gas coming through this part of Vermont, or  
25 whether it's from an economic point of view where

1 I've heard a variety of different analyses before the  
2 Public Service Board from the AARP and from members  
3 of the public at a variety of different events that  
4 analyze the economics of the situation in terms of  
5 this gas pipeline and find that it may be a short-  
6 term economic benefit for the area or for -- at least  
7 for the businesses in the area and some of the  
8 residents, but long term it doesn't have an economic  
9 benefit.

10 So I've seen that analysis, I've seen  
11 the climate change analysis, I've seen the safety  
12 analysis, and no where does this result in DPS coming  
13 up with an analysis that criticizes the pipeline or  
14 that fails to support the pipeline. So it's  
15 interesting that I've heard several different people  
16 do suggest that an independent counsel would be a  
17 better way or an independent advocate outside of the  
18 department or appointed by the Public Service Board  
19 that was not connected to the department, was not  
20 beholden to the Governor so directly, that is exactly  
21 what occurred to me when I was thinking about  
22 recommendations for DPS, is that really in a case  
23 such as the Vermont Gas pipeline as my case study, it  
24 seems that an independent counsel or an independent  
25 advocate that would be appointed outside of the



1 department would be a more effective structure for  
2 representing a broader range of the public interest.

3 So I would definitely recommend that as  
4 a structure that could be instituted by the  
5 legislature or by the Public Service Board as a way  
6 of representing a broader slice of the public  
7 interest that was beyond the interest of the large  
8 utilities in the state.

9 One demonstration that I participated  
10 in some of the participants in the demonstration  
11 presented a rubber stamp in -- to the department, and  
12 I would like to see a Department of Public Service  
13 that could not so readily be accused of rubber  
14 stamping the decisions of the utility industry.

15 Thank you.

16 COMM. RECCHIA: Thanks very much.

17 Appreciate it.

18 MR. JORTNER: Thank you.

19 COMM. RECCHIA: Stephen Whitaker.

20 MR. WHITAKER: W-H-I-T-A-K-E-R. Good  
21 evening. Thank you again for the opportunity. I am  
22 with limited exception not going to discuss what I  
23 discussed in the prior hearing in Rutland, the first  
24 hearing. The one area that I will overlap because  
25 you're here, Commissioner, is the scale of the

1 massive missed opportunity of education by not doing  
2 a 10-year plan. For 10 years you've disengaged the  
3 public. There is not a pool, a deep pool of people  
4 able to intelligently inform the process of writing a  
5 plan. By accepting exemption language into law, when  
6 you have the authority to require the location of the  
7 fiberoptics from the companies to prepare the plan,  
8 and then to accept this new language which says  
9 voluntarily provided information is confidential. So  
10 the public can't know where the fiber is, so we can't  
11 do a calculation of how much fiber we need to build.  
12 So that's a failing of advocacy in my opinion.

13 Similarly, the Board was ordered in  
14 2011 to do a rulemaking for an expedited pole  
15 attachment dispute resolution process. The Board  
16 failed to do it. The department didn't lean on the  
17 Board to do it.

18 Senator, I wish you would stay just a  
19 minute. You won't give me committee time to say  
20 this. All right. I'll send you a tape.

21 So in any case, I feel like Charlie and  
22 I to a degree on the telecommunications front have  
23 been picking up the slack for the department. And  
24 yet we have been marginalized, we have been  
25 dismissed, we have been discounted, debunked, all

1 right, unfairly, rather than be thanked for the  
2 issues and the refined writing that we bring to your  
3 attention. Okay.

4 The proposal for a reengagement  
5 process, for instance. You mentioned cellular,  
6 you're a supporter of cellular. I'm going to expand  
7 upon Charlie's discussion of the Duncan Cable example  
8 because it could serve us well. I believe we should  
9 consider moving to reopen the evidentiary hearings in  
10 this Docket, that we should either give you the  
11 opportunity to do it right, learning from Charlie and  
12 I and others in doing so, or appoint a public  
13 advocate. But how we litigate and complete the  
14 Duncan Cable CPG could directly inform in a very  
15 productive way the new Comcast which is going to be  
16 another year and-a-half in litigation.

17 So some of the things that are wrong  
18 with that. We have got a new goal in statute that we  
19 are going to have fiber speeds to every home in  
20 Vermont by 2024. The department didn't even ask  
21 question one of Cliff Duncan about how he's going to  
22 accomplish that. After I read the transcript I spoke  
23 to Cliff Duncan. He said, yeah, I planned to build  
24 fiber throughout my town in about five years. I said  
25 great. But you've just inherited or asked for five

1 more towns. It's like, no, I can't afford that. You  
2 know, well then let's negotiate with Cliff to help  
3 form a municipal telecommunication union district of  
4 his surrounding towns, and he can serve as the  
5 contractor and the operator, but it will be the  
6 neighboring towns' obligation to raise their money to  
7 accomplish fiber to the premise by 2024.

8 This is the kind -- this would be  
9 advocacy, these are conditions on use of the right of  
10 way and your cable franchise. I know we can't tread  
11 over into regulating broadband, but we are not. We  
12 are saying if you're going to offer cable service and  
13 people are going to rely on that with the cable modem  
14 for their telephone service, Vonage, whatever, then  
15 you need to have backup power on your amplifiers so  
16 that in an outage, we could also say if you've got  
17 fiber you make -- in almost every case you make some  
18 of those fibers available to place -- these micro  
19 cells can hang on the pole and fill a dead zone in  
20 the cell canopy. These would be advocacy that your  
21 telecom director has swatted to the side like it was  
22 a fly. Right. These are good ideas.

23 I don't think that we are going to find  
24 money to create a new agency, new advocacy agency,  
25 and we are a hundred million in the hole already. I

1 would rather see a clear plan of independent -- and  
2 not only a plan but examples of independent advocacy.  
3 Right? It doesn't help for you all to not do a 10-  
4 year-plan for 10 years and then adopt one without  
5 hearings on a final plan, final draft, and then claim  
6 it's legit. It doesn't pass the straight face test,  
7 and I'm working on a declaratory judgment motion to  
8 clarify that for you. I shouldn't have to do that,  
9 you know.

10 Missed opportunity with education.

11 That similar to the disengagement on telecom  
12 planning, this gas pipeline. I got out of the car  
13 here in Shelburne, and I could smell the unburned  
14 oil, the poorly tuned boilers. And you've missed the  
15 opportunity to teach people the air quality and  
16 therefore health care cost benefits of natural gas  
17 over 50-year-old boilers.

18 Okay. You've missed the opportunity,  
19 we are shutting down a nuke. We have this much load,  
20 we have this much capacity, engage the public in  
21 deciding where are we going to trade off. We can't  
22 say no to wind, no to solar, and no to gas and still  
23 keep our lights turned on and our buildings warm.  
24 But if you engage that and develop a curriculum that  
25 goes into the schools, you can get everybody involved

1 in the responsibility for coming up with a good plan.

2 Natural gas as much as it's sourced in,  
3 you know, we're outsourcing our pollution to ground  
4 water in Pennsylvania or whatever, it's a bridge  
5 technology here. It needs to be looked at that way.  
6 It's not an end all, but it will carry us over  
7 between the oil era and the solar era. So I'm not an  
8 advocate or an expert on gas or pipelines, but I say  
9 you've missed an opportunity there, and you could  
10 correct that.

11 We need a public advocate in any case  
12 where the department sides with the company. The  
13 incentive regulation plan. You're proceeding with  
14 only FairPoint and the department in the Docket, and  
15 they both are on the same side. You can't do that.  
16 That IRP also has to be measured against the  
17 10-year-plan. Well we don't have one since '04. How  
18 do you do that?

19 And again, if you try to weasel around  
20 it, you lose credibility further. The service  
21 quality docket settlement. You need a public  
22 advocate in that. The Comcast Docket. The Duncan  
23 Cable Docket. Duncan Cable there is no mention of  
24 high definition channels for public access, yet those  
25 are the top items on the agenda for the statewide

1 public access channels. There is no -- there was a  
2 mention by the Hearing Officer about remote --  
3 supporting remote origination. But remote  
4 origination within his town. What if Brattleboro PEG  
5 or Bennington PEG wants to do a remote origination  
6 from the Wilmington school? It wasn't even  
7 discussed.

8 I mean these are the kinds of examples  
9 that would constitute and demonstrate good public  
10 advocacy. A number -- oh, your telecom division  
11 decimated the VTA, merged it in, and then ordered the  
12 wrong fiber, so they have delayed EC Fiber's  
13 customers from getting lit up until spring or summer  
14 of next year because they didn't know what fiber to  
15 order. They didn't know that you have to order a  
16 different fiber to span between transmission pole  
17 distances and distribution pole distances. Are you  
18 aware of that?

19 COMM. RECCHIA: I'm going to correct  
20 you here. Because I'm trying not to engage and just  
21 listen. But we don't order fiber. The customers  
22 order the fiber. We granted EC Fiber money to go do  
23 their job based on their plan. We don't order fiber.

24 MR. WHITAKER: This is VTA's own fiber.  
25 You inherited VTA's fiber.

1                   COMM. RECCHIA: Fine. I know, and we  
2 have got issues associated with that. But we didn't  
3 do it. We inherited it. There is a difference.

4                   MR. WHITAKER: All right. Well I have  
5 been told by a number of telecom providers and  
6 interests and experts they fear, they now dare not  
7 speak up about the planning that they need to be  
8 involved in because now the DPS controls the  
9 connectivity grants. They fear reprisals. They feel  
10 they will be punished on grant applications because  
11 they question the quality of the plant. That's a  
12 problem. There is a structural problem.

13                   The connectivity bill that was passed  
14 last year should be rescinded except for the  
15 municipal telecommunications union districts. It  
16 wasn't well thought out. There is an opportunity  
17 with everywhere that VTrans has allowed a permit to  
18 string fiber, they put a condition on that permit  
19 that a state entity reserves the right to attach to  
20 that at no charge. That would argue that VTA-like  
21 entity of state fiber from middle mile would be the  
22 lease expensive way to accomplish the middle mile  
23 towards the 2024 goal of fiber to everyone else.

24                   I will stop there. I appreciate the  
25 overtime.



1                   COMM. RECCHIA: Thank you, Stephen.  
2                   No. It's okay. Thank you, Stephen, very much. Mike  
3                   Yantachka.

4                   MR. YANTACHKA: Okay. So --

5                   COMM. RECCHIA: Definitely going to  
6                   have to spell your last name.

7                   MR. YANTACHKA: Y-A-N-T-A-C-H-K-A.  
8                   Okay, so didn't really prepare any remarks. As a  
9                   state legislator I'm looking forward, first of all I  
10                  want to thank you for coming up to the northwestern  
11                  part of the country or the state.

12                  COMM. RECCHIA: In Vermont. It's a  
13                  country. That's fine.

14                  MR. YANTACHKA: In Vermont. And giving  
15                  the public a chance to weigh in on this. I'm looking  
16                  forward to your report, and therefore I'm not going  
17                  to take a lot of time to make suggestions or anything  
18                  because I'll have plenty of opportunity to do that in  
19                  committee, I'm sure.

20                  Your department is tasked with a  
21                  variety of tasks, analysis of the rationale for  
22                  projects, how they fit with public policy, costs to  
23                  ratepayers, and what the benefits are to the general  
24                  public. And you also have to balance the needs of  
25                  the many against the burden on the few. And as many

1 of the folks had suggested here, you've got a  
2 conflict among all these different goals or tasks  
3 that you've got sometimes.

4 And I'm wondering if there isn't a  
5 requirement or a need for having an ombudsman that  
6 could argue specifically for the concerns that  
7 various classes of the public, you know, testify on.  
8 I understand that it would be -- it would have to be  
9 within your department, but also have the possibility  
10 of being in conflict with some of the analysis that  
11 other parts of your department might come up with.

12 So anyway, those are the comments I  
13 have. I thank you for coming up here.

14 COMM. RECCHIA: Thank you.

15 MR. YANTACHKA: I'll look forward to  
16 your report.

17 COMM. RECCHIA: Thank you. Appreciate  
18 it.

19 MR. JORTNER: Thank you.

20 COMM. RECCHIA: Melanie Peyser.

21 MS. PEYSER: I've already given lots of  
22 comment, so I'm only -- I only wanted to say one  
23 thing which is one more time to urge you to issue  
24 this report and arrange public hearings for public  
25 comments on the report.

1                   COMM. RECCHIA: Okay.

2                   MS. PEYSER: I'm very concerned what's  
3 going to happen is that the department that is  
4 fighting to maintain its own department and its own  
5 structure is writing a report about what the  
6 structure ought to be. I think you need to allow the  
7 public and organizations that have experience with  
8 this to make comments before you submit this report  
9 to the legislature.

10                   If that means getting an extension,  
11 maybe you need to do that. But having now gone  
12 through all of the transcripts from the past  
13 hearings, I -- you know, it's impossible for people  
14 to comment on the structure of something without you  
15 presenting the alternatives and asking them to  
16 comment on what those alternatives might be and to  
17 identify strength and weaknesses.

18                   I know that Wayne is going to do a  
19 serious job of this report, I have no question about  
20 that. But I think as you've heard here from many, as  
21 people have gone through public hearings, as people  
22 have gone through technical hearings for various  
23 projects, they can bring to you hundreds of examples  
24 of questions that the department didn't think to ask  
25 or chose not to ask, pieces of empirical information

1 that the department didn't think to ask or chose not  
2 to ask, empirical data that the department had in its  
3 possession and either didn't think to ask about it or  
4 chose not to ask about it, didn't think to bring it  
5 as evidence before the Public Service Board or chose  
6 not to.

7 I think it's very, very important that  
8 you take that possibility that you may be fallible  
9 into consideration before you submit this report. I  
10 think you'll find that people have a lot of data and  
11 a lot of information that they could share with you  
12 about what different possibilities might be. I know  
13 that you're very open to that, and you said that to  
14 me, and I do intend to send you things. But we have  
15 a very big public in Vermont and a highly educated  
16 public, and I think that people would tell you things  
17 if you asked them and gave them the opportunity, and  
18 I think they really have a right to do that.

19 I doubt very much that when the  
20 legislature said you had to hold two public hearings  
21 on this, and I'm very grateful that you scheduled  
22 this third one, that they thought you would be  
23 holding public hearings to -- in a vacuum, collect  
24 information about what people think without any kind  
25 of survey or any kind of structured focus group or

1 anything else to get people to think about it and to  
2 bounce ideas even off of one another in the same  
3 room.

4 I think you're missing a whole body of  
5 knowledge that could be very helpful to you in  
6 thinking about what that structure might be. But  
7 perhaps most importantly, this just happens to be  
8 another one of those areas where having independent  
9 analysis would have been useful. So it's hard I  
10 think for the public to trust that the department is  
11 going to do a good job of presenting different  
12 options and different options for the structure  
13 rather than sort of advocating for tweaking with the  
14 status quo.

15 I think that an independent consultant  
16 would have been a better option. But I think in the  
17 absence of that, you owe it to the public to give  
18 them the opportunity not just to give you input to  
19 the report, but to comment on the report before it's  
20 finalized.

21 The last thing I would say is that I  
22 encourage you to attach the transcript from these  
23 hearings --

24 COMM. RECCHIA: Definitely.

25 MS. PEYSER: -- as appendices to your

1 report to the legislature. So that anybody who  
2 actually wants to read through them it doesn't take  
3 that long, can do that.

4 COMM. RECCHIA: Just before you go  
5 though, let me ask a question. Because first of all  
6 we are doing the report because the legislature told  
7 us to do the report. But it's due currently December  
8 15, which is right around the corner. You don't have  
9 to remind Wayne of that.

10 So I'm sure that if we submitted it to  
11 the joint committees that we are needing to submit it  
12 to that they would hold hearings on it and get  
13 additional feedback from you and from others.

14 Would you prefer that we ask for an  
15 extension and do a review of the draft before we  
16 submit it, or do that process? Because those are the  
17 two choices. I think either way it seems to me you  
18 would be feel better off about taking the report that  
19 we have been asked to do with the limitations  
20 associated with that that you raise, and then getting  
21 an opportunity to have a different venue with the  
22 joint committees.

23 Do you -- based on what you said, do  
24 you have a preference of that?

25 MS. PEYSER: Well my sense would be

1 that whether or not you accept comments in the first  
2 order, that the second set of public hearings will  
3 happen anyway; right?

4 COMM. RECCHIA: That's true, yes.

5 MS. PEYSER: So you will have a richer  
6 report going in. And frankly, I think for the  
7 public, it is a lot more difficult to influence  
8 things once you get to the legislature. So my  
9 suggestion would be that you figure out a way to  
10 actually have a report that people can comment on.  
11 If maybe -- I don't know how you do it. You're a  
12 Commissioner. You've dealt with the legislature for  
13 a lot longer. Maybe that means submitting your draft  
14 and saying but we decided we should ask people and we  
15 will get you the next draft as soon as we can do  
16 that. But --

17 COMM. RECCHIA: Okay.

18 MS. PEYSER: I think it's important to  
19 actually get people's input before you take a  
20 position and before you take a position on the  
21 strengths and weaknesses of any individual issue.

22 COMM. RECCHIA: Okay. That's the list.  
23 Let me just ask if anyone else who came in after we  
24 did the list, is anyone else who would like to speak  
25 who didn't sign up? And then we will come back again

1 to those --

2 MS. BAILEY: I would like to comment on  
3 something you and Ms. Peyser said.

4 COMM. RECCHIA: Could you state your  
5 full name again?

6 MS. BAILEY: Barrie Bailey. And in  
7 thinking about going to Montpelier, for me to come to  
8 speak with you or the legislature, I have to take a  
9 day off from work if I'm the average person.

10 COMM. RECCHIA: Okay.

11 MS. BAILEY: For the hearing to come  
12 out into the state, it's in the evening, it's much  
13 more accessible to more people. So that's why I  
14 would advocate having the hearing before it goes to  
15 the legislature. Because the feedback once you  
16 structure a plan and then get additional feedback  
17 from people here, in the outlying counties --

18 COMM. RECCHIA: Okay. Thank you.

19 MS. BAILEY: -- would be better  
20 attended.

21 COMM. RECCHIA: Okay. Thank you. Yes,  
22 sir. Could you come up and give your name.

23 MR. CAMPITELLI: Yes, thank you. My  
24 name is Scott Campitelli. It's C-A-M-P-I-T-E-L-L-I.  
25 And I work specifically in the telecommunications



1 area. And I work for a local community media center  
2 and with Vermont Access Network. But some of the  
3 things that have been raised really strike an  
4 important cord, that I think we all realize that  
5 state departments are under financial restrictions  
6 and limitations, and that sometimes time can be  
7 short, that there may not be the staffing you wish  
8 you had, and that the Public Service Board may feel  
9 like they have an overwhelming docket of cases.

10 And often telecommunications is not  
11 seen as one of the critical areas in that it's not  
12 power, it's not a life and death situation. But what  
13 I've noticed in our work is that the structure which  
14 is the subject of your hearing, is inherently flawed  
15 often because of this desire often to reach  
16 resolution, so what I've witnessed is that sometimes  
17 the Department of Public Service staff is in -- in  
18 settlement discussions before any Community Needs  
19 Assessments have even been conducted. And so then it  
20 becomes not only does that happen, but it also  
21 becomes a balance where ratepayers are seen as only  
22 interested in how much things cost, and that becomes  
23 a measurement.

24 And in the telecommunications business  
25 what we often see is if the community feels a need

1 for things, and previously folks have mentioned  
2 things like program guides and high definition for  
3 all of the public meetings that are presented and  
4 covered by local community media organizations, but  
5 those can be expensive for the telecommunications  
6 folks, the cable operators to integrate, and that  
7 gets thrust back as, well that's going to cost the  
8 subscribers a lot of money. And so then the  
9 department is in a position of saying well we don't  
10 want to do things that are going to cost a lot of  
11 money, and that becomes the negotiation grounds.

12 And so we are not really in a position  
13 -- so the department by this structure is not in a  
14 position to advocate for the public. They are in a  
15 position to essentially start compromising as soon as  
16 possible. And I think that's sometimes why the  
17 Community Needs Assessments are happening after some  
18 of the settlement negotiations. Right? You're  
19 already trying to settle based on what you think  
20 might work out and might not be too expensive. I  
21 think there is more than one bottom line with many of  
22 these services which are what you regulate, that you  
23 are in the business of regulating services that --  
24 for instance in telecommunications, there is more to  
25 that than how much it's going to cost. That's the

1 future of education in the state. That's the future  
2 of small business development in this state. That  
3 has a lot more to do with things other than just what  
4 cable television subscribers and broadband  
5 subscribers pay for their bill. And that's where it  
6 becomes problematic is it can't be simplified to  
7 that.

8 Also, I will say that to truly be  
9 advocate for the public, there are some very real  
10 skills that members of the Department of Public  
11 Service have to have in this public advocacy  
12 division. Facilitation skills, actually drawing the  
13 public's opinions and understanding out of them, it's  
14 not that people don't care. Look at how many people  
15 were here tonight, but you still need skilled people  
16 who really go out and make a point, a concerted  
17 effort to really try to determine what is the public  
18 need, what does the public want. What is important  
19 to the people of Vermont.

20 Ultimately, and we know you share this,  
21 you want to serve the people in the State of Vermont.  
22 And that's what this is all about. But we have to  
23 create a structure that brings the skills to it, not  
24 just going throughout motions, and I'm not making any  
25 specific criticisms, but sometimes -- and I

1 appreciate that you were told to do two hearings and  
2 you're doing four. Right. You didn't have to do  
3 that. You could be done. Right. But sometimes it's  
4 all you can do with the staffing you've got is to  
5 say, yeah, we did the hearings. Nobody showed, but  
6 oh well, we did it. And that becomes too often the  
7 efficiency of getting things done. And I think that  
8 is a structural problem. And maybe there is a  
9 problem of having public advocacy connected so  
10 closely with essentially settlement negotiations  
11 which is often what's happening.

12 If the Board doesn't ever have to hear  
13 it, that's actually the simplest and lowest work  
14 load, if the Board doesn't actually hear things. So  
15 if you can walk in with a Memorandum of Understanding  
16 between a company and the department that can be  
17 presented sort of signed, sealed and delivered, and  
18 so there are a lot of difficulties where I think the  
19 folks in the public, and we often represent the  
20 public, we are sometimes amazed in the Vermont Access  
21 Network of how few municipalities and other people  
22 come forward to intervene, but that's because it's  
23 expensive. We know that. We know it's expensive  
24 because we hire lawyers and things like that. And  
25 then often that looks like we are a special interest

1 group. Well we are actually not a special interest  
2 group. We are actually serving people in Vermont.  
3 It's the one place where money gets turned back to  
4 serve them by these utilities.

5 So it just strikes me that sometimes it  
6 really is structural, and that there is a structure  
7 here where those two hands sometimes don't even know  
8 what each other are doing perhaps, or one is just a  
9 separate track that has to be done because otherwise  
10 you haven't complied. So there really can be  
11 problems along that lines, and we see it a lot.

12 COMM. RECCHIA: Okay, thank you --

13 MR CAMPITELLI: Thank you.

14 COMM. RECCHIA: -- very much.

15 Appreciate it.

16 MR. JORTNER: Thank you.

17 COMM. RECCHIA: Anyone else out there  
18 who didn't get to sign up?

19 MR. PALMER: Seeing as how you're  
20 taking walk-ups.

21 COMM. RECCHIA: There you go.

22 MR. PALMER: Do you need me to sign?

23 COMM. RECCHIA: No, I've got your name  
24 down here, but if you would tell the court reporter  
25 who you are Nate Palmer, that would be helpful.

1 MR. PALMER: Nathan Palmer. Well, I  
2 felt like I needed to come and talk because you know  
3 I got involved in this little pipeline deal, and of  
4 course we called the Gov there and sent him a couple  
5 E-mails. He said you know just talk to the  
6 Department of Public Service because they will help  
7 you out. I thought great. Public service. I'm part  
8 of the public. I'm a taxpayer. I'm a landowner.  
9 They will take care of me, because you know, I mean  
10 that is what service means in the Department of  
11 Public Service. You're going to service the public.  
12 So I felt like, you know, I was in that category.  
13 God, you know, it's like, you know, you're pretty  
14 naive when you first get involved in this operation  
15 because that's the mindset you have. You're part of  
16 the public. You're going to be serviced. Your  
17 department the way it's being run you should be  
18 called the department of public utilities, and then  
19 you would know what you're walking into. You know if  
20 you're the Department of Public Service you need to  
21 service the whole public.

22 COMM. RECCHIA: Yes.

23 MR. PALMER: I get the good, you know,  
24 the good and the many versus the good of the few.  
25 It's like there is a few people that are going to get

1           tromped on, but there needs to be somebody there for  
2           them as well. You know it's like -- and it needs to  
3           be totally separate. I mean you guys could do so  
4           many good things if you would actually step back and  
5           stop being so hand to hand with the utilities and  
6           really do your job. I mean I know it's a sucky job.  
7           It's got to have its good days, but there is more  
8           sucky jobs than there is anything else, and you could  
9           really do some good things there.

10                         And I really don't think that you need  
11           public meetings like this. You have been the  
12           department, you have been in the state long enough,  
13           you know what's wrong with this department, and you  
14           could fix it, you really could. You know, and it's  
15           going to take some sac to step up and do it or you  
16           should just resign and let somebody else run your  
17           department. That's my feeling. And you definitely  
18           need some advocacy in this thing.

19                         Thank you very much.

20                         COMM. RECCHIA: Thank you, Nathan.

21                         (Applause)

22                         COMM. RECCHIA: Anybody else out there?

23                         Yes, ma'am.

24                         MS. KASPER: Sorry I came late. I'm  
25           pretty sure I'm going to repeat someone else. But my

1 name is Shaina Kasper, S-H-A-I-N-A, K-A-S-P-E-R. I'm  
2 a community organizer with Toxics Action Center.  
3 We're a site-by-site community group to clean up and  
4 prevent pollution, and we envision a world where if  
5 everyone has access to clean water and clean air,  
6 where polluters are held accountable and governments  
7 are responsive and democratic.

8 So we have been working a lot with the  
9 DPS in Vermont since 2002 and we started here. And  
10 as such, we've worked with -- on the pipeline  
11 campaign, the North Springfield Action Group, Safe  
12 Power Vermont campaign, yeah, lots of different types  
13 of interaction with the Department of Public Service.

14 So first I just want to appreciate the  
15 work that you do for first of all the long-range  
16 planning in the state, with visionary, forward-  
17 looking things like the Comprehensive Energy Plan,  
18 and the work that you've done to promote energy  
19 efficiency. And thanks for taking this time to take  
20 the comments and looking at the structure of the DPS,  
21 and although I would like to note that it -- more  
22 could be done for advertising and for having the  
23 comments on the actual draft once they come out as  
24 well, as Melanie had said.

25 A second I would just like to urge to



1 have an independent voice, the Department of Public  
2 Service, to disconnect the public interest from the  
3 political interest. You can see this with the work  
4 that we do in other states where when we are mapping  
5 out who the decision makers are with community groups  
6 that are facing the threat in their neighborhood, it  
7 doesn't just -- it ends at the equivalents of the  
8 Department of Public Service rather than, you know,  
9 saying all right, well they are then responsible to  
10 the Governor, so of disconnecting the kind of  
11 political and the public wills.

12 And additionally, you know, ratepayer  
13 advocacy is not completely separate from the public  
14 interest. The ratepayers also care about --

15 COMM. RECCHIA: Yes.

16 MS. KASPER: -- having clean air and  
17 clean water. And ratepayers are not just energy  
18 consumers. Department of Public Service should  
19 emphasize these values, these real people on the  
20 ground as well. I mean we as ratepayers just want  
21 more than just lower rates.

22 So thank you again. And I'll also be  
23 submitting comments online.

24 COMM. RECCHIA: Great. Thank you,  
25 Shaina. Thank you.

1           Anyone else out there, anyone who has  
2 spoken want to -- heard something they just want to  
3 repeat or comment on?

4           (No response)

5           Okay. Any questions that we can  
6 answer? Because we don't have to stay here until 9  
7 o'clock, but I'm happy to do that if you want.

8           MR. LARKIN: What can you do to have  
9 time to issue a draft and have hearings and input  
10 before you make your final draft?

11          COMM. RECCHIA: Right. I would need to  
12 ask the legislature for an extension.

13          MR. LARKIN: I just wanted to kind of  
14 give you a little zap on that. Did you ask for one  
15 to do the 10-year-plan late?

16          COMM. RECCHIA: Okay, you guys. I'm  
17 going to just say this, you're right that the  
18 10-year-plan hadn't been done since 2004.

19          MR. LARKIN: I mean the one that was  
20 supposed to be --

21          COMM. RECCHIA: In 2014 we did one.  
22 And I know that you don't agree with the process that  
23 we used. But the concept here was we did a draft, we  
24 held a legislative hearing on that. We heard  
25 comment, and we made changes to it in response to the

1 comments. And for those of you who haven't been  
2 following this, these gentlemen are then saying we  
3 should have then gone back out with the final draft  
4 before we finalized it.

5 MR. WHITAKER: It's not us. It's the  
6 statute that says that.

7 COMM. RECCHIA: But the state  
8 legislature agrees with us that that plan is final.  
9 So stop.

10 MR. WHITAKER: No, they haven't. They  
11 haven't agreed to that.

12 COMM. RECCHIA: The ledge counsel has  
13 said that that is a legitimate final plan. I can't  
14 believe anything in the world -- this is the only  
15 comment I will make, I promise, and I'll stop.

16 But I cannot believe there would be any  
17 case where you would want to do a hearing of any kind  
18 on a plan and then not be able to make any changes to  
19 it before you submitted it. What would be the point  
20 of that? So I just think it's -- it is inconceivable  
21 that your argument holds.

22 So I'm happy to, you know, we can argue  
23 about this all the day, and we have, Stephen, but --

24 MR. WHITAKER: Superior court judge can  
25 deal with it.

1                   COMM. RECCHIA: I want people to  
2 understand what the issue is. So we think we have a  
3 final plan. We think it's a good one. We changed it  
4 to go to the hundred hundred that the goal set. We  
5 have a plan in place to get there. Boy guys, give us  
6 a little credit.

7                   MR. LARKIN: That isn't what I asked.  
8 I thought it was supposed to be due on a certain  
9 date. You were about a month getting it in past that  
10 date.

11                   COMM. RECCHIA: Because we were not  
12 able to schedule the joint hearing in time, and I  
13 think the legislature understood that.

14                   MR. WHITAKER: No. You held more  
15 hearings after the joint hearing. So you gave  
16 yourself an extension. You could do that in this  
17 case too.

18                   MR. LARKIN: That's all I'm suggesting.

19                   COMM. RECCHIA: I'd prefer to ask for  
20 one. Yes.

21                   MS. PALMER: Jane Palmer. Chris, you  
22 came to our house probably more than a year ago.

23                   COMM. RECCHIA: Yeah.

24                   MS. PALMER: And we asked you about the  
25 letters that the public was sending to DPS and the

1 PSB. And you told us, I believe, that you don't  
2 count the letters.

3 COMM. RECCHIA: No. So we do -- we do  
4 absorb the letters, and we consider them in our  
5 evaluation of what we think is in the overall public  
6 good. The Board does not consider the letters to be  
7 evidence. That's what I was saying.

8 MS. PALMER: They would count the  
9 letters by say how many --

10 COMM. RECCHIA: You mean like count  
11 like numbers?

12 MS. PALMER: Yeah, or get some kind of  
13 a feeling of what the public thinks.

14 COMM. RECCHIA: We certainly have done  
15 that. Yes.

16 MS. PALMER: In this case? I mean  
17 that's like Andy Simon. This is our case study.

18 COMM. RECCHIA: Yes.

19 MS. PALMER: You have studied the  
20 letters and kept a count of how many pros, how many  
21 cons?

22 COMM. RECCHIA: Sure. I mean we have  
23 all the letters.

24 MS. PALMER: The DPS.

25 COMM. RECCHIA: Yes.

1 MS. PALMER: Okay. Is there a report  
2 of that somewhere?

3 COMM. RECCHIA: No, there is not. We  
4 have the letters. They are public records. They are  
5 available. We have them.

6 MS. PALMER: So someone else would have  
7 to take the pile and go through the whole pile and  
8 make a count in order to know. So you don't really  
9 get a sense from the public what they want from the  
10 --

11 COMM. RECCHIA: I don't think that's  
12 really fair.

13 MS. PALMER: I'm asking.

14 COMM. RECCHIA: Would you rather have  
15 us just count them or read them? We read them and  
16 absorb them, and we incorporate the comments in our  
17 thinking when we evaluate the public good. So do I  
18 actually count them and say, you know, 273 no's, 3  
19 for? No. I don't think we did that. We could do  
20 that, because we still have them all. But if I were  
21 to guess what the number was, it would be something  
22 like that.

23 MS. PALMER: Why wouldn't that be, I  
24 mean, a pulse?

25 COMM. RECCHIA: It is. I'm getting the

1 pulse in the sense I'm getting that information.  
2 It's not a numerical thing; it's not a vote. It's  
3 not a statistically significant or statistically  
4 valid poll of overall Vermonters. So you know, it  
5 has value. And we -- I think we consider that value  
6 fairly. But it is not -- it's not a numbers thing.  
7 We could certainly do that. But -- Melanie, yeah.

8 MS. PEYSER: Sorry. So do you need it  
9 to be written into the statute that you need to do a  
10 public survey to determine the public good or that  
11 you're obligated to present the letters that you  
12 receive as evidence in a public hearing or in a  
13 technical hearing before the Public Service Board?  
14 In other words, what does the public have to do to be  
15 sure --

16 COMM. RECCHIA: Right.

17 MS. PEYSER: -- that those things get  
18 into evidence versus simply being public comments.

19 COMM. RECCHIA: As a lawyer, you know  
20 that they cannot be evidence because -- they can be  
21 exhibits, but they cannot be evidence. I'm not a  
22 lawyer and I know that. They can't be evidence  
23 because there is nobody to be cross examined and to  
24 be deposed on those things. And it is a formal legal  
25 process.

1 MS. PEYSER: But you could have an  
2 expert present it as a report, for example.

3 COMM. RECCHIA: Yeah. The public --  
4 sure.

5 MS. PEYSER: That would synthesize the  
6 information, analyze it, and present it as an expert  
7 report and be cross examined on the report; right?

8 COMM. RECCHIA: On the basis of what  
9 they see there, but the information in those letters  
10 is mostly opinion and mostly -- and will remain that  
11 way as hearsay, and can't be used to judge the  
12 ultimate project unless there is a witness to be  
13 cross examined associated with that.

14 And I don't mean cross examined about  
15 the number of things, the number of letters they got.  
16 It's what's in the letters if you want the substance  
17 to be considered. To talk about, you know, the  
18 public, what is in the public good and where we get  
19 the public interest from, you know, it is partially  
20 the Governor, he's the elected chief official of the  
21 state. It's also the legislature. It's the  
22 statutes. It's the -- what the legislature tells us  
23 to do, and we follow that closely. And it's the  
24 precedents that have appeared before the Board.

25 I was reading a case today from the



1 Board from 1998 that dealt with a bunch of issues  
2 that we are dealing with now that we need to know  
3 about in order to see how the Board is likely to  
4 apply current statute and law. So you know, I'm not  
5 arguing with -- all the concerns that I've heard here  
6 are very valid and appreciated. And we will try and  
7 figure out a way to incorporate them. But you know,  
8 just keep the ideas coming, but I'm not trying to  
9 argue with anyone of them, or I just am trying to  
10 explain how we are currently using the information  
11 that we have to the best of our ability.

12 So -- yes, ma'am.

13 MS. BAILEY: Mr. Recchia, when  
14 listening to you describe the letters for this gas  
15 thing, what occurred to me is you're saying it's not  
16 the whole public, you know, I can't use those numbers  
17 as a vote, and yet when I think about an issue  
18 whether it's am I getting the high-speed Internet  
19 access I need or is it a gas pipeline, or another  
20 issue that that is in your domain. If you get one  
21 letter there is probably 40 people who aren't going  
22 to write a letter or 40 people that won't go to a  
23 hearing.

24 COMM. RECCHIA: Right.

25 MS. BAILEY: So really I feel when you

1 get a broad spectrum of letters, a broad number,  
2 excuse me, of letters, you ought to be able to have a  
3 good sense of how the public is feeling, which the  
4 fact that people -- they are going to speak out about  
5 these things, have spoken both for and against so  
6 that you can get a measure, because both extremes are  
7 talking about severe concerns they have. And there  
8 are probably 40, 50 people behind them that aren't  
9 going to say anything. That are -- that's not their  
10 style.

11 So I do feel that it is an expression  
12 of your public and that it should be very seriously  
13 considered.

14 COMM. RECCHIA: I don't want to mis-  
15 describe this. I do consider them to be very serious  
16 and very good indications of the public that's  
17 affected in that to the extent where those letters  
18 are coming from, the affected people, I consider that  
19 very strongly. There are other public -- I have  
20 statutes, I have state policies, I have the public  
21 that isn't affected by that directly that could  
22 benefit or not from a given project. So all of that  
23 has to go into factoring, you know, our position,  
24 ratepayers, versus property owners, their interests  
25 are not the same. They are both important, and we

1 have to figure out how to manage both of those.

2 So and I guess an example where I did  
3 exactly what you described is, you know, with  
4 FairPoint complaints that we were receiving that just  
5 went through the roof. We had them in every day. We  
6 were going through their numbers and understanding  
7 what kind of resources they were putting toward  
8 addressing those complaints. But we knew that the  
9 complaints that we were getting were a fraction of  
10 the real problem that was out there based on  
11 precisely that knowledge that you were just  
12 describing.

13 So I think we do some of it. Can we do  
14 it better? Yeah, probably.

15 MR. LARKIN: One last point. I used to  
16 be asked why isn't the damn Public Service Board  
17 doing -- supposed to be public and serving me. The  
18 answer is no, no, no. The name is backwards. It's a  
19 Board regulating the company to serve the public.  
20 It's a whole different mind kind of thing. You're  
21 the department. You aren't supposed to be serving  
22 the public. You're supposed to be the department who  
23 serves the public and its needs.

24 The point I'm making here is that I  
25 always explain to public people who called me up, and

1 I had consumer complaints, many a year, the Public  
2 Service Board has an obligation to weigh all of the  
3 parties, the ratepayers --

4 COMM. RECCHIA: That's right.

5 MR. LARKIN: -- the taxpayers, the  
6 company, the company employees, the company grant  
7 holders, stockholders, traveling public. You name  
8 it. And they go into a pot. But I always explained  
9 the department didn't have that charge. That it  
10 wasn't supposed to be looking at all of those groups  
11 but only at the public.

12 Now granted there is more than one  
13 public. But that's still a long ways away from  
14 utilities. And like I say, they get paid through the  
15 ratepayers' money. You take the man's money, or the  
16 woman's money, to hire people to do things that they  
17 wouldn't want you to do. And that's their job. They  
18 are trying to make the best hay they can to make the  
19 stockholders the most profit.

20 I thought your job was to be the other  
21 side, to give the two visions to the Board. And I  
22 get the feeling that you're just too far away from  
23 being away from the utility. You should be way over  
24 here. You represent the public viewpoint, many  
25 publics, and they present the utility viewpoint,

1 perhaps many of the utility viewpoints, and the Board  
2 has to settle all this amorphous combination of  
3 possible stakeholders. A little speech. Thank you.

4 COMM. RECCHIA: Thank you. Yes. Hi.  
5 Have you spoken before?

6 MS. OLSKY: No, I haven't.

7 COMM. RECCHIA: Could you tell us your  
8 name?

9 MS. OLSKY: Denise Olsky. O-L-S-K-Y.  
10 So I'm just wondering how do you consider the public?  
11 Because I called where the gas company told me to  
12 call and they said well you need to get a lawyer if  
13 you want to, you know, register a complaint. I have  
14 a letter that says that.

15 COMM. RECCHIA: From the gas company?

16 MS. OLSKY: No, from -- her name is  
17 Susan something.

18 COMM. RECCHIA: Susan Hudson?

19 MS. OLSKY: But anyway. In order to  
20 have your voice heard I had to hire a lawyer?

21 COMM. RECCHIA: If you want to  
22 participate in the Public Service Board process, you  
23 don't need one, but it's recommended. It works as --  
24 like a court. Because it is a public-- it is based  
25 on -- it's based on evidence, precedent law, it's not

1 an easy system to work in.

2 MS. OLSKY: I understand that. What I  
3 don't understand is how do you consider the public's  
4 opinion. Like if mine was just, oh, well you don't  
5 get -- if you don't hire a lawyer you're not going to  
6 be heard. I don't understand how a company can  
7 charge you more to get the gas to your house than the  
8 actual gas itself. I mean Vermont's a cold state  
9 and, you know, I talk to other people, they don't pay  
10 so much for their gas.

11 COMM. RECCHIA: Interesting. So the  
12 way utilities work is they are paid a fair price;  
13 this is how the concept is. They are supposed to be  
14 paid a fair price for the cost of delivering a  
15 utility service, be it electric, gas, whatever else,  
16 telephone.

17 MS. OLSKY: Who decides what's fair?

18 COMM. RECCHIA: Well the Public Service  
19 Board decides what's fair. And the Public Service  
20 Board bases it on the company's investments, a fair  
21 rate of return for them, and the cost of the power or  
22 the gas. So you're always going to pay more than the  
23 actual gas because --

24 MS. OLSKY: I understand that.

25 COMM. RECCHIA: Maintenance and --

1 MS. OLSKY: But the price for the gas  
2 to be delivered to my house is higher than the price  
3 for the gas.

4 COMM. RECCHIA: Right, because the way  
5 gas companies make money is by transporting the gas,  
6 and most states the gas itself they don't even make  
7 any money on. They pay a certain amount for it, and  
8 then they collect that exact amount dollar for dollar  
9 gets reconciled through a mechanism.

10 MS. OLSKY: Have you compared what we  
11 pay here with other states?

12 COMM. RECCHIA: Sure. We do that all  
13 the time. But --

14 MS. PEYSER: 20 percent more over the  
15 last 10 years.

16 MS. OLSKY: I don't understand that.  
17 That's like going to the store and buying a washing  
18 machine. It cost more to get the washing machine to  
19 my house than the actual washing machine.

20 MS. PALMER: Can I comment on that?

21 COMM. RECCHIA: I'm wondering if it  
22 would be appropriate -- I'm happy to stay, but I'm  
23 thinking that it might be good to in the formal  
24 aspects of this let the reporter go home.

25 MR. WHITAKER: I want to put one more

1 item on the record since we had time.

2 COMM. RECCHIA: Okay.

3 MR. WHITAKER: Because it directly  
4 affects what we are talking about here, and that's  
5 Vermont Interactive Television. Because in effect,  
6 as it's collateral damage to not having had three 10-  
7 year plans. The 2004 plan laid out a four-page  
8 analysis of interactive television, how it worked  
9 with the education network. For those of you who  
10 don't know, it's 14 sites around the state that allow  
11 these kinds of meetings to be held in convenient  
12 hours without traveling long distances. The Public  
13 Service Board just held a hearing at all 14 sites and  
14 they had an immense turn out, 20 people -- 25 people  
15 didn't even get to testify.

16 But the fact that no plan was put in  
17 place to distinguish that public hearing -- public  
18 engagement facility -- which is not reproducible by  
19 any of the other technologies that are available  
20 through the Cloud, through Skype, Go-To-Meeting,  
21 Adobe Connect, so in effect, the legislature's zeroed  
22 out the budget and alternate plans, a needs  
23 assessment of how much health care dollars are being  
24 invested in video conferencing technology, how much  
25 is the public safety community using, how much is the



1 education community using, how much does government  
2 need to use it, no coherent plan of how we could  
3 group these needs and make it sustainable.

4 So in effect, the process -- your  
5 designee took over that process. They canceled two  
6 of the six meetings, so no momentum, no organization,  
7 no coordination towards an alternate plan was ever  
8 allowed to happen. And the best thing that your  
9 department came up with is a rolling cart with a  
10 fixed camera and a fixed microphone on it, which is  
11 not going to work for facilitated meetings. You need  
12 to have meetings for the legislature or even for your  
13 own public engagement where if I get out of control  
14 you can cut me off. The technologies they're  
15 proposing don't have those features.

16 COMM. RECCHIA: Then I'll definitely go  
17 back and check. No.

18 (Laughter)

19 MR. WHITAKER: My point --

20 COMM. RECCHIA: I know your point.

21 MR. WHITAKER: I've researched it  
22 thoroughly, and if they can find -- the legislature  
23 in '15 said we are going -- the legislature is going  
24 to decide next January who owns that equipment. And  
25 the state colleges host five of the sites. They want

1 to do their own thing. They should not be allowed to  
2 evict those studios until the legislature weighs in.  
3 When they start dismantling those studios there is no  
4 one who knows how to put them back together again,  
5 and we have got millions of dollars in investment  
6 there, 2 million just in equipment for those 14  
7 sites. 22 million over 25 years.

8 Okay. So you're playing with fire here  
9 by allowing your telecom division to sweep aside a  
10 real analysis of what needs to happen there. So I  
11 figured out from talking to the people, I've done the  
12 research that in effect your staff should have done.  
13 That if they can find 100,000 they can stay -- they  
14 have customers, U.S. Bankruptcy Court, plumbers'  
15 union, electrical union, and some others that will  
16 put in another hundred thousand dollars in revenue so  
17 they can stay alive until summer and let this full  
18 legislature which might reconvene the joint  
19 technology committee to understand this.

20 Okay, similarly if we have to relocate  
21 those five sites because the colleges -- state  
22 colleges are going to evict them, they need to be  
23 relocated one at a time by the people who run them,  
24 who know how to plug it back together and get it  
25 running in a couple days. Right. If we move them to

1 a site that already has a broadband connection, we  
2 could save 3,000 a month, is what they are paying for  
3 the T1 lines now. Those are not necessary any more.  
4 For every site if we move to any of the sites that  
5 has a fiber connect broadband connection, there is  
6 3,000 a month in savings right there. So this  
7 planning has not been done by your group. And I have  
8 it laid out to where all we need is a hundred  
9 thousand from the legislature to preserve the option,  
10 to not squander a multi-million-dollar investment  
11 over decades.

12 And what's not being heard is how  
13 important it is to this type of hearing which you  
14 need to be doing more of. I think you heard that  
15 tonight. Okay. The legislature wants to hold budget  
16 hearings. VIT is not going to be there next spring.  
17 Okay. There are new examples, new technologies that  
18 can do much higher definition without the expensive  
19 staff and equipment. Those have been piloted through  
20 NSF grants. The guy from Cleveland is willing to  
21 come here and show you how it works. The beauty of  
22 that is that it would move forward the real plan for  
23 a state network. Because it runs on what's called  
24 layer two routing, without getting any more complex  
25 than that. If the state or VTA unmothballed were to

1 lease the dark fiber and keep it all on layer two  
2 routing, you can do instantaneous switching of these  
3 types of conferences just from a MAC book. You don't  
4 need these millions of dollars in equipment any more.

5 So I ask you to get involved, overrule  
6 your staff, okay, take the initiative and keep that  
7 alive until the legislature gets to come up to speed  
8 on what you heard here tonight. And it can be done  
9 for just a hundred thousand. Jim is proposing you  
10 all take over the rolling cart system for 200,000.  
11 Okay. You know how embarrassing that's going to be  
12 if they shut down this system?

13 COMM. RECCHIA: Okay.

14 MR. WHITAKER: Thank you.

15 COMM. RECCHIA: Thank you, Steve. All  
16 right. Okay, tiny point.

17 MS. BAILEY: Just a tiny question,  
18 because I'm not sure. I went to a technical hearing  
19 Public Service Board had. And I don't know quite the  
20 relationship between you and the Public Service  
21 Board.

22 COMM. RECCHIA: Right.

23 MS. BAILEY: But there were probably 35  
24 people in the hallway going like this trying to hear  
25 and relaying back by word of mouth. And they were

1 your public, but they weren't able to hear what was  
2 going on.

3 COMM. RECCHIA: Yeah.

4 MS. BAILEY: Tiny room. No  
5 accommodation to say, wait a minute folks, we are  
6 going to move to another site. There is more than we  
7 anticipated. If you're for the public would you  
8 please advocate with them?

9 COMM. RECCHIA: To anticipate sizes and  
10 move.

11 MS. BAILEY: To anticipate an overflow  
12 of space so that people can hear what's going on. It  
13 may not be interveners, but they still --

14 COMM. RECCHIA: Yeah.

15 MS. BAILEY: -- may want to hear.

16 MR. WHITAKER: Or electronically  
17 broadcast it to a neighboring conference room. Yeah.

18 COMM. RECCHIA: Okay. Thank you. All  
19 right. So Wayne, can you tell them about comments?  
20 Where to send them and how long we have got?

21 MR. JORTNER: I was just going to  
22 mention before we left, this doesn't have to be the  
23 last day that you could submit something. If you  
24 want to submit in E-mail, something in writing,  
25 anything can be addressed to us at the Department of

1 Public Service. Electronically you could send an  
2 E-mail that you could find on our Web site if you go  
3 to our home page, you will see something about this  
4 process. And it will direct you to my specific  
5 E-mail address, and you're welcome to send me  
6 whatever further written --

7 COMM. RECCHIA: I'm going to write it  
8 down.

9 MR. JORTNER: Good idea.

10 MS. BAILEY: And the date?

11 MR. JORTNER: I think we just for  
12 practical reasons we need to see comments by the end  
13 of November. Because I need to have a draft done  
14 about then. And it will be hard to digest anything  
15 much later than that because then it will be due to  
16 the legislative committees very shortly.

17 COMM. RECCHIA: Wayne, help me out  
18 here. J-O-R --

19 MR. JORTNER: T.

20 COMM. RECCHIA: -- T-N-E-R.

21 MR. WHITAKER: Make sure you get that  
22 right when you need a raise.

23 UNIDENTIFIED SPEAKER: New employee.

24 COMM. RECCHIA: By the way, all the  
25 Vermont E-mails have changed from state.vt.us to

1 Vermont.gov. So for any of us that you E-mail, you  
2 can make that change. The other one will still go  
3 through, but who knows for how long.

4 MS. BAILEY: Thank you.

5 MR. JORTNER: So that would get to me.

6 MR. WHITAKER: Part of the plan.

7 COMM. RECCHIA: We were as surprised  
8 about that as anyone.

9 MR. JORTNER: So if anybody has any  
10 questions, you're welcome to contact me by E-mail or  
11 phone, and we don't have time tonight, but I would be  
12 happy to talk to anybody who wants to get a question  
13 answered or provide some comments to me.

14 COMM. RECCHIA: I'm going to let the  
15 court reporter go, and we will close the formal part  
16 of this, but if you guys have any more questions or  
17 want to talk more generally, you know, more  
18 conversation, the way we sort of were doing towards  
19 the end there, maybe stick around for awhile.

20 So thank you very much. Thank you all  
21 very much. Officially. So that concludes the formal  
22 part of this. And we will hopefully be talking soon.  
23 Thanks.

24 (Whereupon, the proceeding was  
25 adjourned at 8:12 p.m.)

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C E R T I F I C A T I O N

I certify that the foregoing is a correct transcript from the proceedings in the above-entitled matter.

A rectangular box containing a handwritten signature in cursive script that reads "Kim U. Lewis". The signature is written in dark ink on a light-colored background.