Comments regarding Structure of its Public Advocacy Division

Bob Amelang, October 30, 2015

Contact

Bob Amelang
129 Bellevue Ave., Rutland, VT 05701
802/775-9965 (home); 802/558-5887 (cell)

Personal Background

My name is Bob Amelang, I am a GMP customer living in Rutland. I retired from GMP in November 2013 after 27 years of employment; prior to merger I worked for CVPS. Before CVPS I worked for several consultants, performing diverse projects for electric utility clients, including rate design and cost of service. I spent the bulk of my CVPS work experience as an internal consultant, where I supported various departments and functions, including legal, rates and finance. As a CVPS internal consultant I learned about PSD performance both from direct experience and indirectly from fellow employees. After retirement I have provided assistance to AARP Vermont regarding GMP rate matters and testified at statehouse committees and the PSB on renewable energy matters.

Comment Summary

In summary, the existing PSD structure has a fatal flaw since the PSD serves at the pleasure of the governor. Allegiance to the governor results in the PSD providing favorable treatment to GMP, since the current governor has close political ties to some GMP executives. Secondly, this allegiance also causes the PSD to provide inaccurate and incomplete information to lawmakers and the public regarding renewable energy. The PSD also wastes resources on the political charged Vermont Yankee decommissioning while neglecting telecommunications matters. Another consideration is that state energy and telecommunications policy places a high work load on the PSD. This work load means high operating costs paid by taxpayers in our small state. These factors result in a PSD that does not act in the best interests of Vermont's utility customers.

Recommendations:

(1) Replace the PSD with an independent public advocate office that is removed from the political pressure to support utility company projects and state renewable energy policy
(2) Specify that the mission of the new public advocate office is to independently represent the economic and reliability interests of Vermont utility customers
(3) Specify that this mission also includes the performing periodic non-rate related analyses such as renewable energy policy cost impacts and avoided costs for payment to independent generators to customers while acting as an independent public advocate
(4) Hire an executive director for the new public advocate office
(5) Specify that the executive director hire staff first from existing PSD employees, subject to the following constraints: that the new public advocate office have sufficient technical and legal expertise and have limited direct ties with the utilities

(6) Specify that the executive director analyze the annual budget, existing scope of work and recent performance of the PSD and make a report that states whether the existing PSD resources are sufficient or not. If not, make recommendations to limit the scope of work.

Detailed comments:

My criticism of the PSD is based on its flawed structure and leadership. Over the years I have met and worked with various PSD staff members, who are dedicated and knowledgeable people with whom I have no critical comments here.

The existing PSD structure is fatally flawed because the PSD serves at the pleasure of the governor. This flaw results in the PSD promoting the governor's goals, some of which conflict with those of utility customers. PSD problems have become acute since Shumlin became governor. Shumlin has close political ties to GMP's CEO. GMP is owned by Gaz Metro, which also owns Vermont Gas. The former GMP vice president Don Rendall now is CEO of Vermont Gas. Shumlin has supported the Gaz Metro takeover of CVPS and the proposed Vermont Gas pipeline extension. As discussed below, the PSD also supports the pipeline extension.

Governor Shumlin has promoted aggressive renewable energy goals, as does the PSD. In my opinion, the PSD has failed in its role as an advocate for utility customers in its treatment of GMP and Vermont Gas, and its role in supporting state energy policy.

GMP has other ties to past governors, lawmakers and others in govenment. For years it operated a "Revolving Door" policy of hiring high level government officials. Quoting from a Seven Days article of 12/9/2013, "Over the years, [GMP] has employed legions of ex-public servants, including former House Natural Resources and Energy Committee chairman Robert Dostis, former House Majority Leader Lucy Leriche, former secretary of administration and transportation Neale Lunderville, former deputy chief of staff to Howard Dean (and current chief of staff to Congressman Peter Welch) Bob Rogan, and former Jim Douglas spokesman Dave Coriell." As I mention later, Robert Dostis is currently a GMP vice president and played a significant role at the legislature to later help GMP.

In recent years before the CVPS/GMP merger, I observed that GMP received preferential treatment from the PSD, compared to that received by CVPS. In my opinion, GMP's considerable political power and influence, together with GMP's enthusiastic support of renewable energy, are significant factors in this preferential treatment. My opinion is based on direct experience and indirectly, from discussions with coworkers over many years. These discussions did not involve disgruntled employees who were trashing GMP because it took over CVPS. First, the statements I heard were from key CVPS employees who had considerable contact with or knowledge of the PSD. Second, my opinion is informed by what I learned well before the merger announcement.

The PSD has evolved over my tenure at CVPS from a public advocate that generally did a good job to one that appears to be acting like a subsidiary of GMP and Vermont Gas. A good example is the Hydro Quebec prudency proceeding for the early 1990s. The PSD was extremely aggressive in treatment of both CVPS and GMP in that proceeding. Both utilities were severely penalized for not cancelling the HQ power contract because less expensive alternatives were available. The PSD was doing its job in that case. I also remember working intensely to support CVPS rate case filing(s) in the 1990s to 2000s. These filings involved very extensive discovery requests and extensive analysis to support costs in rates, which were due to PSD actions.

In the latter part of my tenure, before the merger announcement, I noticed a change in GMP and the PSD. GMP set a corporate goal of supporting renewable energy, particularly solar. The PSD gave less scrutiny to GMP rate filings in comparison to those of CVPS. The PSD required more supporting analysis from CVPS than GMP. The GMP filings occurred faster than those of CVPS. Also, I heard numerous times that GMP did not apply tariff provision consistently to all customers, contrary to CVPS practice. The CVPS practice had always been to require compliance with all its tariff provisions, because it would be penalized for non-compliance. Those penalties were not applied to GMP in the same way as to CVPS.

GMP lobbied for and obtained a new regulatory treatment called Alternative Regulation, or "Alt-Reg". A current GMP vice president, Robert Dostis, was head of the House Natural Resources and Energy Committee that put forth the enabling legislation. GMP was the first Vermont utility to operate under Alt-Reg. From information I received from GMP both before the merger announcement and after working for GMP, my understanding was that Alt-Reg was financially beneficial to GMP. The complex Alt-Reg rules provided benefits since GMP could shift costs from quarter to quarter, or change accounting methods to move costs among categories used in the Alt-Reg rules. Alt-Reg provided guaranteed power costs recovery (60% of total costs), substantially lowering risk, while at the same time, providing a guaranteed floor for return on investments (profits).

Another example of favorable treatment of GMP compared to CVPS was examination of executive salaries and bonuses in rate cases. I remember that in one CVPS rate case the press used lots of ink on CVPS executive salaries revealed in the CVPS rate case information, as required by the PSD. In contrast, executive compensation was not an issue for GMP rate cases. One would think this would be of particular interest after the CVPS/GMP merger, as Gaz Metro would likely have sweetened the executive bonus pot in a merger deal.

The Hydro Quebec prudency order contained a provision that required return of excess HQ costs to customers if either GMP or CVPS were purchased. The amount to be paid was called Windfall Sharing and was to be paid directly to the utility's customers. After Gaz Metro purchased GMP, GMP sought for and obtained a creative payment method that favored GMP. The PSD accepted the new method. GMP's alternative method was to place the Windfall Sharing amount in utility rate base assigned to special projects such as conservation. Utilities earn a return on rate base. Thus increasing rate base is not a penalty but an outcome desired by utilities. Unfortunately, increases to rate base causes increases to rates. The Windfall Sharing amount for the CVPS sale was $21 M and was treated in the same way as for the GMP sale. An independent public advocate would have vehemently opposed GMP's proposed method in both cases.

Recent PSD behavior in obtaining settlements in recent rate and pipeline proceedings has resulted in outcomes more favorable to utilities than their customers. In GMP's last "litigated" rate proceeding, the PSD commissioner unilaterally made a settlement with GMP that ignored cost disallowances determined by PSD staff. Proper consideration of the cost disallowances would have resulted in lower approved rates. This rate proceeding was not litigated in the traditional litigated rate case sense where the Public Service Board reviews all costs, investments and levels of return on Investments. Also scrutinized in a traditional rate case is the underlying accounting that give rise how profits are calculated. Again the PSD reached a Settlement and the Board approved the settlement without a deep dive factual review of what should and should not be allowed in rates.

The Vermont Gas pipeline proceeding clearly shows that the PSD is on the side of Vermont Gas, not its customers. Beside the huge, outrageous pipeline cost increase, there has been no PSD support for the alternative of shipping compressed natural gas by truck as a pipeline alternative. If the PSD cared about customer costs, it would rigorously explore the trucking alternative. No surprise, since Governor Shumlin supports the gas pipeline extension. It seems that the PSD's goal is to build the pipeline, not to find the most economical way to deliver gas to customers. Ironically the PSD supports importing gas obtained from fracking methods while Vermont bans fracking within the state. Apparently, the PSD is responding to the governor's preference of helping Gaz Metro at the expense of his environmental goals.

In addition to favorable treatment to GMP, the PSD provides misleading, inaccurate and incomplete information to Vermont lawmakers and the public regarding renewable energy. The PSD has made statements that net metering has no impact on rates, and even suggested that net metered solar energy helped reduce rates. This is completely false. Net metering acts to increase rates. The net metering offsets the total customer's bill, that included not only power but all expenses and infrastructure plus premium credit. How can you lower rates by paying 19 cents per kWh for net metered energy when the rate customers pay is 15 cents per kWh?

It appears that the PSD supports net metering because of GMP support for net metering. The PSD has not investigated proposed or actual joint ventures between GMP and solar developers. I reviewed one proposal for a joint venture between GMP and groSolar. I don't know if that joint venture was executed, but the proposal indicated that GMP and groSolar would supply 50/50 equity funds to build net metered solar projects.

The PSD recently noted that solar energy from standard offer solar projects in 2014 is 12.24 cents per kWh. That the PSD still supports solar net metering projects that cost 19 cents is obviously not in the customers' best interests. If the state wants solar energy, why not obtain it from the lower cost standard offer projects? Most of the growth in net metered solar projects has occurred with the large 150 to 500 kW projects, not the much smaller projects owned and located at customer locations. These large net metered projects are sometimes grouped together, and are not much different than the 1000 to 2000 kW standard offer projects. Several 500 kW net metered projects in close proximity are essentially the same as a standard offer project. It defies logic that the PSD supports the higher cost solar energy from net metering, unless one considers possible political influence.

The PSD has produced a report entitled: "Evaluation of Net Metering in Vermont Conducted Pursuant to Act 99 of 2014", in October 2014. I have reviewed that report and found at least two biased assumptions that act to inflate the value of solar energy. First, the PSD used long term historical data to compute the capacity value of solar energy. The solar capacity value is the based on the amount of utility infrastructure costs saved due to solar energy generated when peak load occurs. Historically, peaks occurred when solar generation levels are relatively high. The large amount of solar capacity already installed in Vermont has changed that. Because of large solar capacity additions, Vermont electric load peaks are occurring later in the day, when solar power output is lower. As more solar capacity is added, the peak hour will move closer and closer to sunset, when solar has no capacity value. The PSD has ignored this trend in the report.

The 2014 PSD report also exaggerates the value of solar energy in other ways, because of unrealistic assumptions. Another vital issue that the PSD report does not address is customer expectation of continued opportunity for net metering and its subsidies. There is a problem recognized in the utility industry that there will be a backlash from customers who had expected to install net metered solar projects. The PSD needs to inform customers about rate impacts from net metered so that customer expectations are reasonable. Customers who expect that they too can install net metered solar, just as their neighbors have, may be irate to discover that limits are applied and subsidies are reduced. Customers must know that net metering has its limits. Taken to the extreme, if all renewable energy is produced with net metering, under current policy, utilities would have no revenue to support the electric grid.

The high work load of the PSD is of concern. From my experience with small power producers in the 1980s and 1990s, I learned that the PSD sometimes failed in its job of calculating avoided cost rates every year. The avoided costs are used to set rates paid to small power producers (aka independent power producers or qualifying facilities, under Rule 4.100). Failure to issue regular avoided costs had real cost impact, in terms of higher rates paid to independent generators. This failure to calculate rates is understandable, because calculating avoided costs is time consuming. Even back in the 1980s the PSD had a considerable work load and faced budget constraints.

More recently, the PSD has been doing a woefully inadequate job of providing information essential to analysis of renewable energy. For example, the PSD maintains a data base and posts on its web site a table of net metered renewable project capacity by utility. The table is not always updated regularly. The data collection process has too many manual steps and automation was not installed due to resource limits at the PSD. Minutes for important working group meetings are not updated and posted in a timely manner. In my retirement I have regularly checked the PSD web site, noticed the data problems, and informed the PSD regarding them on two occasions. At the recent Rutland public hearing, a retired PSD employee testified to problems caused by PSD failures regarding telecommunication plans. Other informed customers testified about other PSD problems regarding telecommunications. Again, it's understandable that such problems occur. But it's indicative of a PSD that has been given too much work.

The PSD is facing a more complex utility industry today compared to the 1980s. Deregulation has resulted in a much more complex power market and many more market participants. The state has extremely ambitious renewable goals, that require extensive planning and analysis. There are many more stakeholders to inform and public hearings at administer. Technology changes in both energy and telecommunications result in more options to analyze than before. It seems reasonable that at this point in time, when Vermont is examining the PSD structure, that a part of that examination should include an analysis of the current PSD work load in comparison to its human resources.