

Comments regarding structure of Public Service Department ("PSD")

Contact.

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Personal Background. My name is Carl Scott, I am a GMP rate payer living in Fair Haven. I retired from GMP in July 2014 after 29 years of service. One of my roles at GMP and (prior to the Gaz Metro acquisition) at CVPS was developing and defending the cost of service, revenue requirements used to support rate increases.

Comments. The current regulatory landscape is a regulatory body (PSD) that has lost its way and mission over the years. My examples are based mostly on the PSD – GMP relationship. With regard to GMP, this is a non-public company advocating to maximize earnings while maintaining a positive corporate image. GMP has been able to do just that with amazing success. GMP is a company that not only navigates, but seems to control, the political and legal playing fields. Congratulations to GMP.

One question is: How much of GMP's success could be attributed to the PSD? The "competition" in this regulated monopoly is the PSD; the regulators. The structure of the PSD has evolved into a regulatory organization that paves the way for easy corporate profits at expense of the common person. For example, here is a quote from the Rutland Herald, October 17, 2015 defending the back room settlement between the PSD and Vermont Gas (also a Gaz Metro subsidiary) asking the Board to not hold hearings with sworn testimony, fact finding and public input: "One of the other reasons we wanted to do this was to let the board know that there needs to be a timeline; otherwise the project is in jeopardy based on time alone" That is a direct quote (not from Vermont Gas as would be expected, but) from PSD Commissioner, Chris Recchia. If Vermont Gas needs to have a fast time line, they need to provide an accurate, complete and truthful filing on day 1, round 1 - at the time of the initial filing. Now, some facts and truths have evolved that need to be glossed over in round 2 and the Department seems to be a willing partner in glossing things over. Does this sound like competition?

Structure gives rise to process. The Structure is PSD ground troops do their work, report to the Commission, who in turn reports to the governor. The governor controls the actions of the PSD by telling the Commission what he wants for an outcome, the Commissioner, in turn, tells the rank and file how to proceed in terms of what is fair game, and what is hands off. For example, in the case of the current GMP – CVPS merger, the governor came out loud and clear that he supported Gaz Metro over Fortis as the independent company to acquire CVPS. Under this paradigm, the executive branch sent a clear message to the regulators (that he appointed) - do not expose any problems with this merger. Bad PR for GMP equates to bad PR for the governor. As a result of this political structure, single parties, in a vacuum, created one-off merger MOUs generated from non-public back room negotiations. Since not all parties were present for the "puts" and "takes", the whole playing field was blurred without all parties present. The PSD

and GMP work closely together to craft settlements that are political wins for each side without disclosure of what each side gave up. In the end, the rate payers are left with the bill without any input.

- A provision of the Board Order in Docket No. 7770 (para. 107) required a post-merger traditional litigated cost of service review. To date, this has not happened. Therefore:
 - Costs embedded in Base O&M (\$120M) have never been reviewed. This portion of rates is simply calendar year 2011 costs inflated.
 - ROE has never been reviewed or reset since day 1 of the Alt Reg Plans (2007). This level of ROE (10% return) was set based on data prior to the Quantitative Easing by the Federal Reserve Board (essentially “free” 0% money). There has been no discussion of what might be a reasonable ROE
 - The Department and GMP have consistently collaborated to reach MOUs and settlements that avoid public disclosure of issues that may be embarrassing to either party. Hiding the facts is not good public policy. Furthermore, the exclusion of any stakeholder is not good public policy.
 - Creation of excess profits to GMP (above and beyond the allowed ROE) in the form of “synergy” savings. In years 1-3, significantly more than half the savings from the GMP-CV merger flow directly back to Gaz Metro at the expense of the GMP rate payers. There has been no meaningful rate decreases since the merger. I doubt an enthusiast public advocate would support additional profits over the allowed ROE to flow back to the owners. Nowhere else in the country is this done. Rates should reflect reasonable return on allowed investments and recovery of prudently incurred expenses. That is it. Vermont owns the franchise.
- The current structure of PSD has allowed for:
 - The Windfall Sharing from the HQ prudence penalty (\$21M) that was to flow back to CVPS customers. Instead this was used to create rate base for GMP – on which GMP earns a return. A return I might add that is included in rates (more undeserved profits). So instead of being a refund, this arrangement creates higher bills for the customers and more profits for GMP. Again the governor was on the 6 o’clock news campaigning to preserve this provision of the merger deal. Given the political structure, the PSD and the Board had no choice but to allow this. The rate payer lost again.
 - A complicated rate structure reflecting all the various MOU’s, adjustments and surcharges with so many moving parts it is incomprehensible to the average rate payer to understand if the electric rates went up or down, much less verify what happened¹. This feeds into the desire to keep things muddy, and maintain a claim that rates are going down as a result of the merger.

¹ “As part of GMP’s commitment to deliver reliable, cost-effective and clean energy, your bill will decrease beginning with power used in October by 0.76% pending Vt. Public Service Board approval. This includes a credit to balance the annual collections for the Energy Assistance Program (EAP). Residential customers will receive a \$17.87, commercial \$29.78 and large industrial \$992.67. Based rates will increase 0.08%; there will be a 0.65% charge to cover a portion of cost of restoring power in December’s major snow storm; and there will be a credit of \$0.000003 per kWh to adjust for lower than expected power costs. This equals an annual decrease of 0.76%. Future EAP charges will be reduced by 33%.”

- The PSD auditor states in his (Larkin) report that certain rate base investments should be not included in rates because they do not meet the “known and measureable” standard. However, the report goes on to says, let’s allow at least a portion of these costs to be included in rates. The auditor also took the position that some items not be included in rate base because they are “image building” and by statute, not allowed into rates. These items were allowed into rates.
- Promises in MOUs, such as using a certain method to calculate Working Capital and housing the customer service operation in Rutland City, are ignored by all parties.
- Allowance for GMP to provide non-tariffed services. A Tariff is the law and should be strictly followed. (See PSD letter to PSB dated September 16, 2015).
- No transparency when the final rate level is deemed by the PSD and GMP to be reasonable. There is no review of the “puts and takes”. Language such as “not all adjustments were adopted” and “global agreement” in settlement agreements tells me the public is missing the real story. For example, the GMP and the PSD agree to a change in the Incentive Comp level in a vacuum. How does this agreement benefit the ratepayer?

In summary, the rate payer is not represented under this paradigm. The current PSD structure creates a process that represents the politics of the day and the current structure does not provide a worthy advocate for the rate payer. There is no follow through to insure the MOU’s and Agreement provisions are being met.

Recommendations:

- Replace the Department with an independent agency that is: (1) immune to political pressures; (2) represents and reports to the rate payer; (3) creates an environment for open negotiations; (4) simplifies the billing components (e.g. combine PPA, exogenous charge, base charge, etc.); and (5) isn’t afraid to challenge a Corporate Giant. The rate payer needs to be represented.
- Replace the Public Service Board with an independent quasi-judicial agency that: (1) is truly looking for a Company-Customer balance based on ALL the facts (not summary MOUs and agreements); (2) insists on openness, completeness, integrity and honesty of all that come before them; (3) insists that Orders are followed; (4) verifies MOUs are honored; and (5) verifies that Tariffs are strictly followed.
- There should be term limits for the PSD auditor so fresh eyes are inserted into the process periodically. For example, Larkin and associates have been used since the beginning of Alt Reg. A different auditor will look at the cost of service from a different perspective.
- Provide public minutes for all MOU and Settlement negotiation meetings, identifying the issues and what is on the table.