VERMONT

PUBLIC SERVICE DEPARTMENT

Report on the Public Advocacy of the Vermont Department of Public Service Pursuant to Act 130

A Report to the Vermont House Committee on Energy and Technology, the House Committee on Commerce and Economic Development, the Senate Committee on Finance, and the Senate Committee on Natural Resources

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Introduction

Act 130 of 2016 requires the Department of Public Service ("Department" or "DPS") to annually submit to the General Assembly a report regarding the activities of its Public Advocacy Division.[i] This is the fourth report submitted by the Department.

The Public Advocacy Division was involved in over 350 matters before the Public Utility Commission in 2019. This caseload, as in the prior year, entailed matters of rate setting, rate design, siting of new energy projects, and the safety of a gas pipeline to name just a few. In addition, there was a docket dealing with best practices for creating better adoption of Electric Vehicles, a proceeding dealing with whether there should be an all-fuels efficiency program, and more traditional cases such as a service quality investigation into the largest telephone company in the state.

Act 130 further provides that: "The primary purpose of the reporting requirement of this section is to help address concerns regarding any potential compromise of the effectiveness or independence of the Department's representation of ratepayers in rate proceedings, including base rate filings under an alternative regulation plan."[1] Sec. 5f(c), requires the Office of the Attorney General to "monitor and detail at least one rate proceeding annually and make findings and recommendations related to the effectiveness and independence of the Department's ratepayer advocacy." This year the Attorney General's office monitored two cases, a Green Mountain Power Corporation rate case and a Washington Electric Cooperative rate case. The full compilation is appended to this report, however, the Department notes that the Attorney General's office concluded: "The Department of Public Service served as an effective advocate on behalf of ratepayers in both of the rate cases reviewed," and, "The work of the Department's attorneys, staff, and experts in these rate cases was independent from the regulated entities or other influences."

Act 130 requires the Department's report to address:

- A summary of significant cases concluded within the past year;
- The positions taken by the Department in those cases;
- A summary of the Department's role and positions with respect to other significant topics addressed by the Department's Public Advocacy Division

[1] Act 130 of 2016, Section 5f (b).

pursuant to alternative regulation or to litigation before the Public Utility Commission[2]("PUC" or "Commission") or other tribunal;

- Specific references to the Department's duties and responsibilities under Title 30, and an explanation of how the Department's positions and activities align with those statutory provisions; and
- The terms of any settlement or memorandum of understanding ("MOU") negotiated by the Department in such cases, the parties that participated in any settlement or MOU negotiations, and documentation of what the Department was able to negotiate on behalf of residential ratepayers and what the Department conceded that was beneficial to the applicable public service company.

Over the past few years the Department has heavily curtailed the use of MOUs in contested proceedings. It is important to note that the Department is only a party to contested proceedings before the PUC, and the PUC is not compelled to agree with the advocacy put forth by the Department, or any other party, and at times it does not. In an effort to provide more transparency into PUC advocacy and proceedings, not entering into MOUs allows the public to view the positions taken and advocated for by the Department and other parties, and it allows the public the ability to see the PUC reasoning in orders wherein it accepts or rejects the positions taken in contested matters before the PUC. A good example of this is found in the Service Quality Investigation into Consolidated Communications. The Department requested an investigation into the company's service quality due to a large increase in consumer complaints, and as the case progressed the Department took the position that substantial bill credits for service outages would provide the best incentive for the company to improve its service quality. The PUC ultimately decided that the law did not allow it to order the bill credits. Lawyers frequently have good faith disagreements over interpretation of law and in this case the Department had a different interpretation of the law than the PUC but that is how litigation before a judicial body works, and in this case, there is a complete record of the entire proceeding.

Other matters included in this report include the Green Mountain Power and Vermont Gas rate cases which both resulted in the lowest commission-authorized Return on Equity for a

[2] Pursuant to Section 9 of Act 53 of the 2017 legislative session, the Vermont Public Service Board's name was changed to the Vermont Public Utility Commission, effective July 1, 2017. For clarity, activities of the Vermont Public Service Board that occurred before the name change will be referred to in this document as activities of the Commission unless that would be confusing in the specific context.

vertically integrated electric and gas utility in the United States. Another example is the Department's advocacy in the investigation into the residential electric, water and gas service disconnection rules in which the Department has proposed a new rule with clearer language and structure that secures better consumer protections for vulnerable persons, while also limiting ambiguity and administrative costs ultimately borne by the ratepayers of the utilities.

Department's Duties under Title 30

General Provisions

The statutes directing the Department's work are found in Title 30. Section 2(a) directs the Department to "supervise and direct the execution of all laws" relating to public service entities. Section 2(a)(6) directs the Department to represent "the interests of the consuming public in proceedings to change rate[s] …." Section 2(b) broadens that focus, stating that "In cases requiring hearings by the PUC, the Department, through the Director for Public Advocacy, shall represent the interests of the people of the State, unless otherwise specified by law."

The duties of the Department fall into two broad categories – planning and regulating. Regarding the planning functions, the Department prepares and issues long range plans that guide the evolution of energy and telecommunications industries in Vermont. The regulatory functions of the Department include representing the public interest (as developed in the various plans) as a party in virtually all cases before the PUC.

Generally speaking, in its regulatory functions, the Department participates in cases where a party petitions the PUC to construct an energy or telecommunications facility, and in cases involving rates charged and services rendered by regulated service providers. The cases involving construction of energy facilities are reviewed under Title 30, Section 248, with the applicant seeking a CPG to build a facility. Rate cases, service quality cases, and other cases are generally brought by a utility wishing to increase its rates, change its services, or undertake another action for which PUC approval is required. Additionally, with respect to any matter within the jurisdiction of the PUC, the Department may initiate proceedings on its own motion. The Department may also initiate rule-making proceedings before the PUC.

Significant Matters of the Past Year

What follows is a high-level summary of some of the matters in which the Department has participated over the past year. It is by no means exhaustive, but hopefully will provide a balanced look at the advocacy undertaken by the Department.

Case Summaries and Positions Taken

Case No. 17-3550-INV - Investigation regarding the alleged failure of Vermont Gas Systems, Inc. to bury the pipeline at the required depth in New Haven, Vermont

On June 2, 2017, Vermont Gas Systems, Inc. ("VGS") filed a request with the Public Utility Commission ("PUC") for a non-substantial change determination for the Addison Natural Gas Project ("ANGP") approved in PUC Docket No. 7970. VGS's request notified the Commission that the ANGP pipeline was not buried to the four-foot depth in approximately 18 locations in New Haven as required by the Certificate of Public Good and Final Order issued in 2013. VGS did bury the pipeline to a depth of at least three (3) feet, consistent with the minimum depth required by the federal pipeline code at 49 C.F.R. § 192.327.

On June 23, 2017, the Department of Public Service ("Department") submitted a letter to the Commission requesting an investigation with respect to why VGS failed to meet the four (4) foot requirement in the specified locations, including an evaluation of the construction techniques used, the difficulties involved, and the efforts made by VGS to comply with the depth of cover requirement. Additionally, the Department determined that the pipeline continued to meet federal and state pipeline safety standards requiring a three (3) foot depth of cover, and that any additional risk presented by the reduced depth of cover in the New Haven area could be reasonably mitigated by VGS.

On July 14, 2017, the Commission issued an order opening an investigation into whether VGS violated the 2013 Final Order and CPG by burying the pipeline less than the required four feet at 18 locations in New Haven, Vermont.

As detailed in the 2019 *Annual Report on Public Advocacy of the Vermont Department of Public Service Pursuant to Act 130*, the Department initiated enforcement proceedings by serving a Notice of Probable Violations ("NOPV") on VGS. After the Department's inspections and review of VGS' submittals, the Department identified probable violations of federal pipeline regulations where the Department proposed a remediation plan to address the long-term integrity resulting from the alleged violations. VGS and the Department executed a Memorandum of Understanding ("MOU") in which VGS committed to execute remedial measures for the life of the pipeline to satisfactorily address the Department's concerns.

On February 28, 2018, a group of intervenors submitted a Motion to Broaden Scope of Investigation with the Commission, alleging the ANGP pipeline construction and installation failed to comply with the CPG and Final Order in areas beyond the depth of cover issue – several of which were raised in the Department's NOPV. The intervenors requested the Commission expand the scope of the investigation to include review of various issues related to pipeline installation safety. VGS and the Department supported the use of an independent expert to be retained by the Commission to review the pipeline construction concerns raised. On April 5, 2018, the Commission ordered the scope of the investigation be expanded to include review of applicable pipeline construction, performance, and safety standards. On January 10, 2019, the Commission further expanded the scope of investigation to include whether all pipeline construction plans, and related documents, were signed and sealed by a Vermont-licensed professional engineer prior to construction.

On October 16, 2018, the Department submitted its review of VGS's final report regarding the In-Line Inspection ("ILI") of the 41-mile ANGP transmission line, and remediation recommendations to which VGS agreed to implement in an MOU. VGS initiated remediation measures detailed in its MOU with the Department, including increased frequency of pipeline inspections and in-line inspection data collection. The Department retained a natural gas pipeline engineering expert to review the ILI data. The Department's expert independently concluded there is no indication that the integrity or the safety of the ANGP pipeline has been compromised.

After affording all parties the opportunity to comment, the Commission entered into a contract with William R. Byrd of RCP Inc. on January 7, 2019 to conduct an independent review of the ANGP pipeline. Mr. Byrd conducted two (2) site visits, from June 17 to June 21, 2019

and August 26 to August 29, 2019. Additionally, Mr. Byrd reviewed the CPG for the ANGP pipeline and identified all requirements related to pipeline safety and reviewed inspection reports made contemporaneously during the ANGP pipeline construction. On December 11, 2019, Mr. Byrd submitted the *Final Report from the Independent Investigation of the Vermont Gas Systems Addison Natural Gas Project* ("Report"), with a corrected version submitted on January 8, 2020. The findings from the Commission's expert may be summarized as follows:

Compliance with Regulations and CPG Requirements

The Report finds VGS was diligent in its efforts to comply with the applicable pipeline safety regulations and the CPG commitments during construction of the ANGP pipeline. Review of the Department's inspection reports for each year found any critical comments to be minor deficiencies that are routinely found and corrected daily during a project. The report finds that while VGS did not have perfect success in every instance of compliance, VGS resolved issues in a timely manner as they become aware of them. Additionally, the report finds the Department conducted extensive inspections of the ANGP pipeline during construction and such a level of inspection by a pipeline regulatory agency as "extraordinary." The report finds the Department's issued NOPVs have been resolved appropriately.

Depth of Cover

With respect to jurisdictional stream DOC requirements, the report finds the non-jurisdictional streams examined have no erosion potential that would present pipeline safety concerns nor require additional DOC. The report does not agree the DOC for non-jurisdictional stream crossings was intended to be seven (7) feet, however any violation would be purely a technical nature and have no impacts on pipeline safety or the environment. With respect to residential depth of cover ("DOC") requirements, the report finds the PUC did not include a four-foot DOC requirement for residential areas, and as such, the general three-foot DOC requirement applies. Finally, with respect to the VELCO Right of Way ("ROW") DOC, the DOC in the New Haven swamp is required to be four (4) feet in the VELCO ROW. While the DOC was not met in some areas of the ROW, the report finds VGS acted appropriately in

working with VELCO concerning deviations to the burial requirements in the swamp ROW. The report opines the deviation constitutes a non-material change from the plans and specifications.

Intervenors' Specific Allegations

The report addresses the Intervenors' additional allegations – (i) the backfill materials used for bedding and padding the ANGP pipeline was of sufficient quality, (ii) VGS complied with the specifications for bedding and pipe support as they were understood at the time and responded to any issues raised appropriately, (iii) VGS should have monitored compactions levels and ensured sufficient compaction in open cut roads, however lack of bedding or compaction cause no pipeline integrity concerns in the swamp ROW, (iv) VGS did install required trench breakers to protect wetlands and streams, (v) VGS use appropriate construction configuration and technique in the swamp consistent with the project plans and CPG, (vi) the ANGP pipeline is properly coated and had adequate cathodic protection, (vii) VGS developed and complied with a quality assurance program to oversee the pipeline contractor and subcontractors.

Professional Engineer Signature

The ANGP construction plans were not stamped by professional engineers in charge of the engineering work at the time of construction but were developed by engineering firms licensed in Vermont and under the supervision of engineers licensed in Vermont. The report found the engineering process and oversight by the Vermont Office of Professional Regulation was acceptable. Furthermore, the report finds no evidence that the engineering or design work for the ANGP pipeline was deficient, not performed by competent engineers, or posed a risk to public health, safety, and welfare. After being requested to do so, Vermont-licensed professional engineers provided stamped versions of the construction drawings with no additional modifications.

The report concluded the ANGP pipeline was thoroughly and competently designed and engineering and comprehensively inspected during the construction. VGS met the requirements

and commitments in almost every case and the intent in every case. The report provided seven additional recommendations to ensure the ANGP pipeline operates at a higher level of safety.

Currently, the parties have agreed upon a schedule for further litigation. The parties will engage in discovery and anticipate an evidentiary hearing the week of April 8, 2020.

Case No. 17-4630-INV - Investigation pursuant to 30 V.S.A. §§ 30, 208, and 209 regarding the alleged failure of Vermont Gas Systems, Inc. to comply with the final order and certificate of public good in Docket 7970 by failing to observe the requirements of the Blasting Plan

On December 23, 2013, the Public Utility Commission ("Commission") issued a Final Order and Certificate of Public Good ("CPG") in Docket No. 7970 authorizing Vermont Gas Systems, Inc. ("VGS") to construct a natural gas transmission pipeline from Chittenden County into Addison County, Vermont, the Addison Natural Gas Project ("ANGP").

On June 20, 2016, a blast occurred along the route of the ANGP pipeline in Monkton, Vermont where debris and fly rock traveled across Old Stage Road in Monkton, Vermont and into the woods on the edge of Ms. Kristin Lyons' property.

On August 11, 2017, VGS filed a notice with the Commission stating it entered into a settlement agreement with Ms. Lyons following mediation of a civil suit against VGS arising from the blasting incident.

On September 13, 2017, Ms. Lyons filed a petition with the Commission to open an investigation alleging VGS violated its Blasting Plan approved in the Final Order and CPG issued in 2013. The Department recommended the Commission open an investigation based on the allegations made by Ms. Lyons' petition.

On October 24, 2017, the Commission opened an investigation into VGS's June 2016 blasting incident.

In recognition of Ms. Lyons' significant concerns, the Department contracted with an independent expert to conduct a review of Ms. Lyons' allegations against VGS. On November 2, 2018, the Department filed the *Assessment and Review of Blasting During the Construction of the Addison Natural Gas Pipeline* report conducted by Dr. Raymond Henn of R.W. Henn, LLC ("Report"). The Report concluded VGS did not violate any provision of the blasting plan, provided sufficient notice, adequately conducted blasting security measures, and adequately

coordinated all blasting operations. The Report also found VGS failed to provide adequate management and oversight of the record-keeping practices of its blasting subcontractor.

The Department's Position

Ms. Lyons alleges VGS (i) failed to comply with the Notice Requirements in VGS's Blasting Plan and CPG prior to blasting, (ii) failed to comply with the Blast Security Requirements of the Blasting Plan, and (iii) failed to adequately coordinate all blasting operations with VGS's on-site management team. The Department reviewed Ms. Lyons's allegations and the record of facts in this matter and finds VGS satisfactorily complied with the Blasting Plan's notice requirements, security requirements, and coordination obligations. VGS has demonstrated significant efforts to notify Ms. Lyons of pending blasting activity on three occasions prior to blasting in conformance with the Blasting Plan. VGS secured all known access points on Old Stage Road during ongoing blasting activities, placed blasting signs at each end of the road, made sufficient efforts to remove equipment, personnel, and any individuals present from the site, and conducted necessary pre-blast security checks prior to each blast. Finally, the Department found VGS maintained a blasting representative on site and properly coordinate its blasting operations.

On September 12, 2019, the Commission's Hearing Officer issued a Summary Judgment Order in favor of VGS on all but one claim. The Hearing Officer concluded VGS violated the notice requirements of the Blasting Plan, thus it violated the issued Final Order and CPG.

Currently, the parties are engaged in further litigation to determine an appropriate penalty amount for VGS's notice violation. The parties are in the process of conducting discovery in January of 2020. On February 13, 2020 the Department and Ms. Lyons will file recommendations regarding whether a penalty should be imposed.

Case No. 18-0974-TF – Green Mountain Power 2019 Rate Case

On April 13, 2018, Green Mountain Power ("GMP") filed for a proposed 5.45% base rate increase which, as proposed, would have been offset by a $27.4 million credit to ratepayers that reflected a return of tax savings that flowed from revisions to the federal tax code. The net effect of GMP's initial proposal was that customers would have a 0.5% rate decrease for the first nine months of 2019. GMP represented that the rate increase was driven largely by increases to power, transmission, and net-metering costs coupled with a reduction in retail sales. GMP's rate

request also included a proposed rate of return on equity ("ROE") of 9.3%. GlobalFoundries and Renewable Energy Vermont (REV) both intervened as parties in this proceeding.

Position of the Department

In its initial testimony, the Department recommended that the Commission reduce GMP's rate increase to 4.70%, which represented an approximately $2.045 million reduction to GMP's proposed cost-of-service. The Department's rate reduction recommendations focused almost entirely on capital projects that GMP proposed for the rate year because the vast majority of GMP's operations and management ("O&M") were fixed for ratemaking purposes based on a 2014 order from the Commission. The Department's retained cost-of-capital expert also found that GMP's proposed 9.3% ROE was reasonable (GMP's cost-of-capital witness testified that a 10% ROE would be justified, but GMP agreed to a 9.3% ROE based on a settlement agreement between the Department and GMP that was partially approved by the Commission in the prior year's rate case). In total, the Department recommended that the Commission disallow approximately $34 million of proposed capital spending from GMP. The single largest recommendation from the Department was that the Commission remove $15 million of capital spending associated with residential battery storage pilots from rate base. The Department also recommended that approximately $400,000 be removed from GMP's proposed power supply costs. The Department's review of GMP's filing was supported by independent outside experts who filed testimony on behalf of the Department. The Department also relied upon testimony from its own internal expert witnesses.

GMP's rebuttal testimony modified its rate request in several ways. First, as the rate case was pending, GMP entered into a special contract with GlobalFoundries that locked GlobalFoundries electric rate for a three-year period and exempted GlobalFoundries from several variable cost adjustors from GMP's alternative regulation plan. GlobalFoundries also agreed to forgo the benefit of the tax credit. The contract with Global foundries put approximately 0.6% of upward pressure on GMP's base rates, but increased the total value of the tax credit for other customers. GMP's rebuttal testimony also agreed with the Department's power supply recommendations and several of the Department's relatively smaller capital spending reduction

recommendations. When those reductions were offset by the impact of the GlobalFoundries agreement, GMP revised its rate request to a 5.43% increase with a nine month decrease of 0.9% as a result of the tax credit.

In its surrebuttal testimony, the Department supported the GlobalFoundries contract and therefore incorporated those costs into its recommendation. One of the Department's retained expert witness also agreed with GMP's rebuttal testimony on several engineering-specific capital projects. The Department, however, maintained its recommendation on residential battery storage and several other capital spending recommendations. As a result, the Department's final recommendation was that the Commission approve a 5.25% base rate increase that would be offset by the tax credit resulting in a nine month decrease of 1.08%.

Commission Order

The Department and GMP did not enter into a memorandum of understanding or formal settlement agreement. The case proceeded through contested evidentiary hearings and briefing from the parties. The Commission issued a final order on December 21, 2018 which authorized a 5.43% base rate increase. The largest remaining issue of disagreement between the Department and GMP was costs associated with residential battery storage, which the Commission allowed GMP to include in rate base. The Commission did, however, agree with the Department's recommendations on several smaller capital programs, including residential water heaters. The Commission also disagreed with several smaller recommendations from the Department on transmission and distribution projects. Finally, the Commission approved the 9.3% ROE, which was the lowest commission-authorized ROE a vertically integrated, rate-regulated utility in the United States.

Case No. 18-2850-TF – Green Mountain Power Rate Design

On August 3, 2018, the Green Mountain Power Corporation (GMP) filed proposed adjustments to its rate design. In a rate design case, a utility does not increase or decrease the total amount of costs it is authorized to collect from ratepayers. Instead, the utility reallocates costs among its customer class based on changes in the costs to provide service to each class of

customer. In other words, rate design is intended to fairly distribute a utility's costs among rate classes based on the cost to serve each class. GMP filed its proposed rate design petition while its rate case and proposed contract with GlobalFoundries (discussed above) were pending before the Commission. GlobalFoundries participated as intervenor in this case.

As part of its filing, GMP proposed only modest cost reallocations among its customer classes. In total, GMP's rate design includes 13 different rate classes. However, as a result of the special contract with GlobalFoundries (which is the only customer in GMP's sub-transmission customer class), GMP was required to redistribute costs to its other customer classes to account a reduction in revenues from GlobalFoundries. Of significant note, GMP requested a 0.44% decrease for its general residential rate, a 1.0% increase for its commercial and industrial rate, a 1% decrease for general service (usually small commercial customers) and a 1% increase for general service with demand response (also usually small commercial or industrial). GMP's proposed changes were supported by embedded cost-of-service study (ECOS). GMP did not propose any new rate classes or services as part of its rate design filing.

Position of the Department

The Department did not recommend any changes to GMP's proposed rate class cost reallocations. The Department found that GMP's reallocations were generally consistent with its ECOS and promoted rate stability across customer classes. However, the Department recommended that any future rate design filing from GMP be supported by both an ECOS and a marginal cost-of-service study (MCOS). The Department also argued that GMP's rate design proposal did not satisfy a prior Memorandum of Understanding (MOU) from Docket 8525 between the Department and GMP,[3] which required that GMP provide new "innovative" rate design elements in this rate design proceeding. Finally, as discussed above, the Department supported GMP's special contract with GlobalFoundries. The Department's analysis found that GMP's proposed contract rate with GlobalFoundries resulted in revenues that were approximately $7 million in excess of GMP's marginal cost to serve GlobalFoundries. The

[3] Docket 8525 involved the merger or GMP rate classes with Central Vermont Public Service (CVPS) as a result of the merger between the two companies.

Department's testimony also highlighted that if GlobalFoundries were to reduce its load obligations significantly or shut down operations at its Vermont plant, GMP's other ratepayers would be significantly burdened by increased costs. The Department therefore agreed with GMP and GlobalFoundries that the special contract rate was in the best interest of GMP's broader customer base.

GMP challenged the Department's arguments that its proposed rate design filing did not conform with the requirements of the Docket 8525 MOU. GMP did not, however, object to the Department's recommendation that future rate design filings be supported by an MCOS.

Commission Order

The Department and GMP did not enter into a memorandum of understanding or formal settlement agreement in this case. Instead, the case proceeding through a contested evidentiary hearing and formal briefing from the parties. The Commission issued a final order on December 21, 2018 in tandem with the final order in GMP's rate case. The final order adopted GMP's proposed rate class reallocations. The Commission also adopted the Department's recommendation that any future rate design filings from GMP include an MCOS. The final order deferred on issuing a determination on whether GMP's proposed rate design satisfied the requirements of the Docket 8525 MOU. Instead, based on recommendations that the Department presented in its briefing, the Commission required that within one year, GMP and the Department report back to the Commission on additional efforts from GMP to implement new innovative services and rate classes.

Case No. 19-0513-TF – Vermont Gas Rate Case

On February 15, 2019 Vermont Gas Systems, Inc. (VGS) filed a petition with the Commission requesting a 5% increase to its daily access and distribution charges (Base Rates) and a $6.4 million withdrawal from the System Enhancement and Reliability Fund (SERF). [4] In its initial filing, VGS represented that the proposed base rate increase would be wholly offset by

[4] The SERF fund was established in advance of the construction of the Addison County Natural Gas pipeline. The purpose of the SERF fund is to smooth the rate impact of the addition of the pipeline to VGS's cost-of-service. The outstanding balance of the SERF fund (which is approximately $16.5 million) is expected to be fully returned to customers over the next three to five years.

16.6% decrease in natural gas costs, which would result in an overall 2.7% decrease in firm rates from between the date the petition was filed and when the proposed rates become effective on October 1, 2019. VGS also sought approval of a 9.8% authorized rate of return on equity investments (ROE). This was the fourth consecutive year in which VGS requested Commission approval for base rate adjustments through a traditional cost-of-service rate case.

Position of the Department

After filing direct and rebuttal testimony, the Department recommended that the Commission approve VGS's requested 5% base rate increase, but limit the SERF withdrawal to $4.325 million and maintain the overall 2.7% firm rate decrease. In other words, the Department requested that the Commission reduce VGS's proposed cost-of-service by approximately $2 million (or roughly 3.8% of base rates). The primary outstanding areas of disagreement between the Department and VGS included: (1) cost-of-capital and ROE; (2) VGS's expenses for outside services; (3) payroll expense; and (4) rate base adjustments. With respect to ROE, the Department recommended that the Commission authorize a rate of 9.2%. The Department argued that VGS's proposed historic outside service costs were inflated as a result of litigation associated with the Addison Country Natural Gas Pipeline (ANGP). Finally, the Department challenged VGS's methodology for calculating employee headcounts, which reduced VGS's overall salary and benefit expense. The Department's review of VGS's filing was supported by independent outside experts, including an ROE expert that filed testimony on behalf of the Department. The Department also relied upon testimony filed by its own internal technical staff.

Commission Order

The Department and VGS did not enter into a memorandum of understanding or formal settlement agreement. Instead, the case proceeded through a contested evidentiary hearing and formal legal briefing. On October 23, 2019, the Commission issued a final order approving the

requested 5% base rate increase, but reduced the authorized SERF withdrawal to $4.95 million. The Commission disagreed with the Department's recommendations on salaries and benefits, but partially agreed with the Department on costs for outside services. The Commission also adopted some recommendations from the Department relating to transmission and distribution main costs. Importantly, the Commission adopted the Department's recommended 9.2% ROE, which was the lowest commission-approved ROE for a natural gas utility in the United States. Together with reductions in the cost of natural gas costs, the Commission's order resulted in a 2.7% reduction in firm rates for customers.

Case No 19-1081-INV – Noverco, Inc. Petition to Acquire Indirect Ownership Interest in GMP and VGS

On April 16, 2019, Noverco, Inc. (Noverco), a Canadian corporation that is the principal corporate parent of Green Mountain Power (GMP) and Vermont Gas (VGS), filed a petition with the Commission seeking approval of a corporate transaction that would result in the indirect acquisition of ownership of additional shares in GMP and VGS

The structure of GMP and VGS's corporate ownership is relatively complex. Prior to filing its petition, Noverco already possessed indirect control of GMP and VGS through its ownership of a 71% majority ownership stake in Énergir, a Quebec-based energy conglomerate. The remaining 29% of Énergir was controlled by Valener Inc. (Valener), a publicly traded Canadian corporation. Énergir is the direct owner of the Northern New England Energy Corporation (NNEEC), which in turn owns VGS and GMP directly.

In this case, Noverco sought approval of the buyout of Valener, which would result in Noverco assuming 100% ownership in Énergir. Noverco, however, is jointly owned by Trencap L.P. (61.11%) and IPL System Inc., (38.89%), a wholly-owned subsidiary of Enbridge, Inc. (Enbridge).[5] Trencap L.P. is indirectly controlled by the Caisse de dépôt et placement du Québec (the Caisse), which is essentially a public pension fund. Enbridge is a substantial Canadian energy firm. The proposed transaction did not affect the ownership structure of Valaner.

[5] Harreld and Kujawa pf. at 7; Faucher pf. supp. at 2.

A group of GMP and VGS customers intervened in the case and challenged the transaction based on Enbridge's role in the corporate hierarchy. Specifically, the intervenors argued that the transaction should be denied because Enbridge, which owns and controls substantial fossil-fuel based infrastructure, would assume a larger indirect share of the Vermont utilities. In particular, the intervenors argued that the transaction would increase the likelihood of new fossil-fuel infrastructure being built in Vermont and create disincentives for transitioning Vermont residences and businesses away from natural gas and fuel heating. The intervenors did not file testimony or present witnesses, but they did cross-examine Noverco's witnesses at an evidentiary hearing. The case also received several hundred public comments in the Commission's ePUC filing system, almost all of which opposed the transaction.

Position of the Department

The Department recommended that the transaction be approved. As part of its review of the petition and Noverco's testimony, the Department served written discovery and reviewed various financial, service quality, power supply, and other regulatory reporting documents that GMP and VGS have previously filed with the Commission and Department (including documents produced in recent rate cases, integrated resource plan (IRP) dockets, and various required annual and quarterly reports). The Department also retained independent expert witnesses with extensive business management experience within the regulated utility industry to assist the Department in evaluating whether and how this proposed transaction could affect management and control of GMP and VGS. The Department concluded that the transaction would not materially affect the management of either VGS or GMP and would improve the utilities' access to capital. The Department therefore found that the transaction supported the public good. The Department presented its position through formal prefiled testimony.

In its legal briefing, the Department acknowledged the environmental and safety concerns raised by intervenors related to Enbridge's minority ownership stake in Noverco. The Department, however, noted that the transaction did not involve new ownership in either GMP or VGS and that Enbridge would remain a minority owner in Noverco. The Department also noted that GMP and VGS's obligations under applicable Vermont law are not dependent on their

respective corporate ownership, and that Vermont regulators are capable of ensuring that GMP and VGS adhere to all applicable legal requirements relating environmental protection and green-house gas reductions. The Department, however, recommended that the Commission impose conditions regarding notification of any additional changes in the ownership structure of Noverco that could affect Enbridge's minority stake in Noverco.

Commission Order

Although it supported the transaction, the Department did not enter into a formal memorandum of understanding or formal settlement agreement with Noverco. Instead, the case proceeded through a contested evidentiary hearing and the Department filed legal briefing outlining its support of the transaction. The Commission issued a final order approving the transaction on September 20, 2019. The order included several conditions similar to those requested by the Department that require Noverco to advise the Commission of any changes to its corporate structure that would result in Enbridge increasing its minority stake in Noverco. Immediately after the order was issued, the intervenors filed a motion requesting that the Commission issue an emergency stay to prevent the transaction from closing prior to the intervenors filing an appeal of the Commission's final order with the Vermont Supreme Court. The Commission held an evidentiary hearing on the intervenors' motion, but denied the motion for a stay. The intervenors ultimately did not appeal the final decision with the Vermont Supreme Court.

Case No. 18-3231-PET – Petition of the Department of Public Service for an Investigation into the Service Quality Provided by Telephone Operating Company of Vermont, Inc. d/b/a Consolidated Communications, Inc.

On September 19, 2018, the Department petitioned the PUC to open an investigation into the quality of telephone service provided by Consolidated Communications of Vermont, LLC d/b/a Consolidated Communications ("Consolidated"). The Department filed the petition in light

of (1) a drastic decrease in repair and installation times as reported by Consolidated in its 2017 and 2018 quarterly service quality reports; and (2) receiving numerous complaints from Consolidated customers regarding severe delays in repair and installation time beginning in the spring of 2018. Specifically, between April 2017 and March 2018, Consolidated reported that it cleared an average of 35% of residential troubles within 24 hours. Between April and June of 2018, that number continued to decrease to an average of 26%. Pursuant to PUC Docket 5903, all local exchange service providers in the State are required to meet a clearance baseline of 70%. Additionally, between July and September of 2018, the Department received 143 complaints from Consolidated customers relating to service outage delays, which reflected a 2,760% increase in complaints over the number received during the same time period in 2017. The Department also received 24 consumer complaints relating to installation delays of up to three weeks, which represented a 500% increase in complaints over the number received during the same time period in 2017. Many if not all of the complaints received were from "captive" Consolidated customers with no viable telephone service alternative.

On September 26, 2018, the PUC granted the Department's request and opened an investigation into whether Consolidated is in compliance with its service quality obligations as assumed in PUC Docket 8881, which granted the merger of Consolidated with FairPoint Communications ("FairPoint").

Two public hearings were convened by PUC. The Department and Consolidated participated in both public hearings, as did a wide array of stakeholders. The first public hearing was held on November 26, 2018 in Readsboro. Approximately 20 members of the public and one state representative were in attendance. Eleven members spoke and expressed their frustration with the lack of service quality provided by the only telephone provider available to

them. The second public hearing was held on December 4, 2018, where two members of the public voiced their frustration over Consolidated's lack of service quality.

Position of the Department

The Department commissioned an independent telecommunications expert to determine and analyze the reasons for Consolidated's failure to comply with its regulatory obligations and provide effective service quality to its captive customers. After conducting four rounds of extensive written discovery requests and filing direct and rebuttal testimony, the Department determined the primary causes contributing to Consolidated's failure to provide adequate service quality to be two-fold. First, Consolidated lacks sufficient staff to resolve the number of troubles for outages and make timely repairs and installations. Second, despite regulatory requirements to reinvest it its network, Consolidated has failed to reinvest in a way that effectively improves service quality for its most vulnerable customers. The Department concluded that while penalties against the company are merited, such a remedy would not have a direct, positive effect on improving service for the company's captive customers. The Department therefore recommended that in lieu of penalties, the PUC require Consolidated to provide customers residing in high-cost exchange areas with an automatic enhanced bill credit of $5 per day for troubles not cleared within 24 hours.

A contested evidentiary hearing was held on October 11, 2019. During the hearing, Consolidated conceded that it experienced drastic decreases in service quality shortly after the merger with FairPoint, and that service quality troubles continued for over a year. The company asserted that has taken various actions to address repair and installation delays experienced by its customers in 2018, including changes to staff contracts and internal workflows, as well as certain network improvements, all of which necessitate time to manifest an improvement in service

quality. The Department continued to take the position that an enhanced bill credit designed to protect customers with no competitive voice alternative is necessary because it will strongly encourage Consolidated to quickly repair lines in exchanges where service quality is severely lacking and, because the company has no competition in such areas, no financial incentive currently exists to do so.

PUC Order

On January 13, 2020, the PUC issued a final order in the case. The order determined to impose a penalty on Consolidated in the amount of $120,000 to be deposited into the state general fund, or a commitment to invest $150,000 in plant upgrades in rural areas in 2020. On February 7, 2020, Consolidated notified the PUC that it would opt to invest $150,000 in outside plant improvements in 2020. The company is required submit with the Department a plan describing the proposed improvements, on which the Department will review and provide comments within 4 weeks of receiving the proposal. Consolidated is also required to submit a written report to the Department in the first quarter of 2021 detailing the plant improvements that were installed and explaining all efforts the company has made to ensure that it provides credits to all customers who are known by Consolidated to have been impacted by outages, regardless of whether the customer requested a credit.

Case No. 17-4999-INV – Investigation into Rule 3.300, which governs the disconnection of residential electric, water, and gas service

On November 22, 2017, the Public Utility Commission ("Commission") opened case number 17-4999-INV, an investigation into Commission Rule 3.300. This rule governs the procedures and regulations pertaining to the disconnection of residential water, gas, and electric service. Originally, the investigation was opened in response to complaints that utility workers

were being subjected to threatening behavior when conducting on premises disconnections of service. Early on, the Commission expanded the proceeding to discuss Rule 3.300 generally. To date, this discussion has been conducted over a series of written comment rounds and two workshops.

The first workshop was held on May 9, 2019, and explored issues, questions, and concerns pertaining to remote service disconnection and reconnection, utility disconnection standards, payment arrangements, budget plans, and winter disconnections. The second workshop followed on June 10, 2019 and focused on various issues including: physician notes to avoid disconnection, customer privacy and landlord-tenant issues, the "household" rule which governs when debts accrued under one person's name can be attributed to another, vulnerable populations, disconnection notice forms, and monthly disconnection reports. The Department of Public Service ("Department") has been actively engaged in this investigation. From the outset, as stated in its comments filed December 20, 2017, the Department has supported broad amendment of Rule 3.300 and encouraged a formal rulemaking proceeding.

Consequently, a group of interested utilities proposed to form a working group to submit a joint red-line edit of Rule 3.300 for the other parties to consider. While the utility working group was preparing its draft, the Department asked a series of questions and data request on July 30, 2019. This information was sought to aid the Department in further formulating its positions and responses. The utility working group filed its draft red-line mark up of the rule on August 19, 2019. Answers to the Department's questions were filed on a rolling basis through this period. The Department responded to the utilities red-lined draft edit of Rule 3.300 on October 1, 2019. Rule 3.300 was first enacted in November of 1983 and was amended twice – first in January of 1990 and again in July 2006. The workshops and comments underscored the need for Rule 3.300 to be clarified, modernized, and updated. Therefore, in its October 1, 2019 filing, the Department recommended such an overhaul and proposed to draft a comprehensive rule for further consideration.

On November 6, 2019, the Commission issued an order expanding the scope of the proceeding, as proposed by the Department, and issued a schedule for the submission and consideration of the Department's draft comprehensive rule. The Department's intention is to propose a Rule with clearer language and structure that secures consumer protections for

vulnerable persons, while also limiting ambiguity and the administrative costs reported by utilities.

The Department, by drawing on the experience of its Consumer Affairs and Public Information divisions and legal team, is compiling a draft which broadens the scope of Rule 3.300, to include standards and billing practices; credit, collections, and deposits; and both residential and nonresidential accounts. This expanded scope is intended to result in a comprehensive rule, like Commission Rule 7.600. A comprehensive Rule would prevent potential inconsistencies between an updated Rule 3.300 and Rules 3.200 and 3.400 by merging substantial aspects of all three rules. It would also promote efficiency by combining three interrelated rules. With a broadened and revised Rule 3.300, the Commission could potentially retire part, or all, of Rules 3.200 and 3.400. The Department intends to file its draft rule in the early part of 2020. Following the filing of the Department's draft comprehensive rule, the Department has recommended that additional discussion and comment rounds take place between it, implicated utilities, the Commission, and various consumer interest groups. Such continued discussion would compose a rule that is more efficient for utilities, protects ratepayers from delinquent accounts, also affords protections to vulnerable consumers, and allows reasonable repayment of arrearages and account management tools for Vermonters struggling to make ends meet. After the draft comprehensive rule has been discussed and revised with stakeholder input, the Department will recommend a formal rulemaking to follow.

Cases regarding Electric Vehicles and promoting their adoption

The Public Utility Commission opened case number 18-2660-INV, an investigation into promoting the ownership and use of electric vehicles ("EVs") in the State of Vermont, on July 9, 2018. Vermont is known for robust and progressive renewable energy policies which are meant to reduce the State's greenhouse gas ("GHG") emissions and lessen the negative impacts of climate change. However, transportation is the leading contributor to GHG emissions in Vermont and it makes up 47% of the state's total GHG emissions. Vermont's Comprehensive Energy Plan seeks to power 80% of the state's transportation sector with renewable energy by 2050.

Over the course of four workshops and multiple rounds of filings, comments, and presentations, the Commission gathered facts and engaged the many participating stakeholders in preparation for its EV Report, which it submitted to the Vermont Legislature on June 27, 2019. The investigation covered a range of topics, such as jurisdiction and the role of state agencies, the regulatory treatment of private EV charging station operators, EVs specific rate design, options to address how EV users pay toward the cost of maintaining the State's transportation infrastructure, how electric vehicles will integrate with the electric grid, electrification of the Vermont government's fleet, utility planning for EV adoption, and encouraging the adoption of EVs. Participants included representatives both state and national institutions including the Vermont electric distribution utilities, renewable energy companies, EV charging station providers, automotive companies and trade groups, Vermont State Agencies (such as the Agency of Natural Resources; the Agency of Agriculture, Food, and Markets; the Agency of Transportation; and the Department of Buildings and General Services), and environmental and public interest advocacy groups. The investigation prompted public commentary as well.

The Department was an active participant in the case and took a leading role in many instances. The Department's recommendations influenced laws passed in Act 59 of 2019 (H.529) and contributed to the Commission's legislative report. The Department often took the role of coordinating and presenting a collective response to comments and workshops from multiple state agencies.

Department comments included:

1) A recommendation that EV specific rates be established because existing rates are a barrier to EV adoption. Specifically, a properly formed EV rate could encourage EV adoption and charging in a manner beneficial to the grid, such as off-peak. This could be done without cross-subsidy of EV users from ratepayers that don't have EVs. Well-crafted rates could even benefit all ratepayers by complementing the system and contributing new revenues to joint and common costs.
2) Encouraging utilities to plan for EV adoption and their dispersal throughout a given utility's system, to allow for careful load ("load" is a term for electric demand and use) management and avoid the need for infrastructure upgrades.
3) Recommendations as to the scope of regulation needed, or not, over private

EV charging station operators, electric utilities involvement with various aspects of EV adoption and EV charging, consumer protections and billing procedures, electrical safety standards, and interoperability.

4) Helping identify the barriers to EV adoption and suggesting ways to minimize or remove them.
5) Discussing the accuracy of EV chargers and metering technology.
6) Making recommendations for how to address barriers to the economic viability of commercial EV fast chargers posed by demand charges and other utility billing mechanisms.
7) Recommending funding options, tied to timing and percentage of EV adoption, for EV drivers to contribute to Vermont transportation infrastructure funding.

After the close of case number 18-2660-INV, and the submission of the Commission's EV legislative report, the Commission continued its investigation and analysis of EVs in case number 19-3009-INV. This investigation focused specifically on the following issues: 1) fees to be assessed to EVs to fund transportation infrastructure; 2) EV charging tariffs and rate design; 3) whether distribution utilities should give the Commission periodic EV reports, and if so what such reports should include; 4) revenues and costs posed to the utilities by plug in EV proliferation; and 5) how to address net-metering used for electric vehicle supply equipment. On July 24, 2019, the Public Utility Commission ("Commission") issued its Order Opening Investigation into potential fees and assessments related to electric vehicle ('EV") charging in Vermont. On August 15, 2019, the Department, the Agency of Transportation ("VTrans"), and the Agency of Natural Resources ("ANR") filed preliminary comments in the above-referenced proceeding. The comments asserted: (1) Vermont's electric distribution utilities should collect a per-kWh transportation infrastructure assessment from EV users; and (2) EV-specific loads can be accurately sub-metered through EV supply equipment and/or separately priced using newer forms of advanced smart meters. Then, on September 6, 2019, the Department, VTrans, and ANR filed supplemental comments in the above-mentioned proceeding. The comments again explained that (1) Vermont's electric distribution utilities should collect a per-kWh transportation infrastructure assessment from EV users; and (2) there are various issues associated with alternative fee approaches for EV transportation infrastructure. Finally, on

October 30, 2019, the Department, VTrans, and ANR filed their concluding comments, which reiterated the arguments made by the Department in the October 16, 2019 hearing. Specifically, the comments asserted that (1) EV loads should be treated as a distinct class for purposes of applying traditional rate design principles; (2) EVs should be separately tariffed from generalized household and business rates and load; and (3) net-metering should not apply to an account that primarily serves an EV charging station that is reselling that power to the public, whether it be on a per kWh basis or some other basis. On December 10, 2019, the Commission issued its Report and Recommendations to the Vermont Legislature regarding the above investigation. The Commission rejected the Department's aforementioned recommendations and suggested that the Legislature consider other potential alternatives to transportation funding, including: vehicle-miles-traveled fees, annual registration fees, and fees based on battery capacity.

Case No. 19-3548-PET – Vermont Yankee Nuclear Power Station Decommissioning, previously PUC Case No. 8880 - Joint Petition of NorthStar Decommissioning Holdings, LLC et al. to transfer ownership of Entergy Nuclear Vermont Yankee, LLC pursuant to 30 V.S.A. §§107, 231, and 232

This matter concerns the joint request by Entergy[6] and NorthStar[7] to transfer ownership of the Vermont Yankee Nuclear Power Station (Vermont Yankee) from Entergy to NorthStar. This would enable NorthStar to decommission Vermont Yankee decades earlier than was planned under Entergy's ownership. At the end of 2018, the Nuclear Regulatory Commission and the Vermont Public Utility Commission issued orders authorizing the transfer of Vermont Yankee. NorthStar began decommissioning the site in early 2019. The Department is overseeing the financial aspects of the decommissioning.

Regulatory Approvals

On December 16, 2016, Entergy and NorthStar filed a joint petition with the Vermont Public Utility Commission (Commission) in Docket 8880 to transfer the certificate of public good for Vermont Yankee from Entergy to NorthStar. On February 9, 2017, Entergy and

[6] "Entergy" refers to Entergy Nuclear Vermont Investment Company, LLC (ENVIC) and Entergy Nuclear Operations, Inc. (ENOI), and any other necessary affiliated entities to transfer ownership of Entergy Nuclear Vermont Yankee, LLC (ENVY).

[7] "NorthStar" refers to NorthStar Decommissioning Holdings, LLC (NDH), NorthStar Nuclear Decommissioning Company, LLC (NorthStar NDC), NorthStar Group Services, Inc., LVI Parent Corporation, and NorthStar Group Holdings, LLC.

NorthStar filed a request with the Nuclear Regulatory Commission (NRC) to transfer the NRC license.

On October 11, 2018, the Nuclear Regulatory Commission approved the license transfer request. The NRC found that NorthStar had the financial and technical qualifications to decommission the Vermont Yankee site as proposed. In connection with this approval, the NRC analyzed NorthStar's financial strength and conducted independent cash flow analysis of the funds available for the decommissioning. The NRC wrote that NorthStar and Entergy "have provided reasonable assurance of obtaining the funds necessary to cover estimated costs for decommissioning[.]"

On December 6, 2018, the Vermont Public Utility Commission (Commission) approved the transfer of the certificate of public good. Several factors were critical to the Commission's approval, including: (1) the package of financial assurances and risk mitigation measures included in a memorandum of understanding with several parties, include state agencies; (2) the NRC's order authorizing the license transfer and assessing NorthStar's qualifications; and (3) the expected benefit for the State of expedited decommissioning and the broad public support for the proposal.

Department's Position in Litigation

The Department's primary concerns regarding the transfer were: (1) NorthStar's technical ability to decommission the plant as proposed; and (2) receiving adequate financial assurances to ensure there was proper funding for decommissioning and site restoration work. The work should be funded by two trust funds: the nuclear decommissioning trust ("NDT") for radiological work and the site restoration trust ("SRT") for non-radiological work.
The Department filed the memorandum of understanding (MOU) with the Commission on March 2, 2018. The MOU was signed by the Department of Public Service, the Agency of Natural Resources, NorthStar, Entergy, the Windham County Regional Commission, the Town of Vernon, New England Coalition on Nuclear Pollution, Inc., the Elnu Abenaki Tribe, the Abenaki Nation of Missisquoi, and, as to certain matters, the Vermont Office of the Attorney General. The Department elected to sign the MOU based upon: (1) NorthStar's technical qualifications; (2) the additional financial assurances the State negotiated; and (3) the additional oversight rights established in the MOU.

First, the Department investigated NorthStar's experience and found it had the technical expertise to decommission the plant, given its experience in demolition and waste management at energy facilities. For example, in August 2012, NorthStar dismantled and removed the reactor at the University of Illinois Nuclear Reactor Lab, and did so within the approved budget. Entergy, meanwhile, did not specialize in demolition and had no decommissioning experience; it would have had to hire contractors to perform this work. Entergy would not have been obligated to begin decommissioning the plant until 2068; the Department found that the costs of decommissioning the plant in several decades were uncertain.

Second, the Department negotiated significant additional financial assurances in the MOU. It was critical to the Department to negotiate additional financial assurances should either the NDT or SRT prove inadequate, given its statutory obligation in "any proceeding where the decommissioning fund for the Vermont Yankee Nuclear Facility is involved," to "represent the consuming public in a manner that acknowledges that the general public interest requires that the consuming public, rather than either the State's future consumers who never obtain benefits from the facility or the State's taxpayers, ought to provide for all costs of decommissioning." 30 V.S.A. § 2(d). The financial assurances in the MOU provided over $200 million in additional funds beyond what was originally offered, bringing the total financial assurances to over $250 million (in addition to the funds in the NDT and SRT). The financial assurances under the MOU come from a greater variety of sources, and are therefore more diverse and secure.

Finally, the MOU established additional oversight rights for the Department and other state agencies. These include NorthStar's obligations to submit a monthly summary of expenditures and an annual certification on the project's progress, as well as the Department's right to object to disbursements from the SRT.

The Department no longer opposed the transfer after signing the MOU. The MOU was a significant consideration for the Vermont Public Utility Commission in authorizing the transfer of the certificate of public good to NorthStar.

Decommissioning and Site Restoration Work

On January 11, 2019, the sale of Vermont Yankee was executed. NorthStar promptly began "decommissioning" the site. Decommissioning "primarily involves decontaminating the facility to reduce residual radioactivity and then releasing the property for unrestricted or (under

certain conditions) restricted use."[8] NorthStar is also performing the "site restoration" work, which is the non-radiological decontamination that restores the site to "greenfield status."

Under the MOU, NorthStar must submit a monthly summary of expenditures at the site to the Department. By March 31, NorthStar must submit annual reports covering the prior calendar year. NorthStar must also submit to the Department any request for a disbursement from the site restoration trust; the Department has 30 days to submit a written objection. The Department has the right to access the site, and to inspect NorthStar's books and expenditures.

The Department retained the Four Points Group to support it in overseeing the project. The Department and Four Points have worked with NorthStar to develop a list of materials NorthStar provides the Department on a regular basis, and to synchronize requests for disbursements with NorthStar's monthly reporting. The Department initiated a monthly teleconference with its consultants and several NorthStar staff to address any questions arising from the monthly reporting. One of the Department's consultants visits the site every 4-6 weeks to assess the project's progress, in addition to having a Department employee on site almost daily. Each month, the Department and its consultants review the materials provided to determine if they are consistent with the NorthStar's projections for the project, and are reasonable given the work that has been performed. As of December 2019, the Department's assessment is that the decommissioning project is on track and is going well.

To maximize public information, the Department has updated its website (https://publicservice.vermont.gov/content/vermont-yankee-decommissioning) with information regarding the decommissioning, including by posting the monthly and annual reports, as well as the balances of the nuclear decommissioning trust and the site restoration trust. The primary activities have been site characterization (to identify the scope of radiological and non-radiological contamination), reactor vessel segmentation, turbine removal, and cooling tower removal. The reactor vessel segmentation is being conducted by a subcontractor, Orano USA LLC.

[8] *See* https://www.nrc.gov/reading-rm/basic-ref/glossary/decommissioning.html

Case No. 19-2956-INV – Investigation pursuant to Act 62 into the creation of an all-fuels energy efficiency program, expansion of energy efficiency utility programs and services, and funding options for those programs

On July 11, 2019, the Public Utility Commission (Commission) issued an order opening an investigation pursuant to Act 62 of the 2019-2020 Vermont legislative session. Section 2 of the Act requires the Commission to conduct a proceeding and report to the Legislature on the Commission's consideration of the creation of an all-fuels energy efficiency program, an expansion of energy efficiency utility programs and services, and any funding options for those programs.

Status of Investigation

The Department filed its initial comments on July 26, 2019. The Department recommended that the goal of the investigation be to examine the most effective mechanisms to deliver and fund demand-side services to Vermont residents and businesses. The Department stated that this goal could be effected through workshops followed by stakeholder comments. The Department recommended that the proceeding begin with an identification of: current programs available to customers; who delivers the programs; and the program's funding sources. The Department then recommended that the proceeding consider expanding the programs and services that efficiency utilities may provide, as well as explore the possibility of an "all-fuels" utility. The Department recommended thereafter exploring the funding questions contained in Section 2(a)(3)(A)(i) and Section 2(a)(3)(A)(ii) of Act 62, including how to use existing or new funding sources to better support existing services, or whether to implement new services.

On September 16, 2019, the Department provided a preliminary report to the Commission and stakeholders. This report: (1) summarized the current statutory policies and goals that guide Vermont's energy programs; (2) summarized the current portfolio of energy programs and services that are available to Vermonters and their current source(s) of funds; and (3) proposed definitions of terms such as "electrification" and "efficiency."

Workshops were then held on September 24, 2019; October 25, 2019; and November 22, 2019. The Department submitted comments on October 11, 2019; November 15, 2019; and

December 2, 2019. The Commission's preliminary report is due to the Legislature on January 15, 2020.

The Department's Position

The Department's filings often provided general information for the benefit of all stakeholders. For example, the Department's October 18th comments provided information about jurisdictions with green banks, thermal renewable energy credits, and energy efficiency programs for unregulated fuels. The Department's comments identified strengths and weaknesses for Vermont's current energy delivery services. Strengths included flexible and intelligent legislation, including Tier III of the renewable energy standard; Efficiency Vermont operating as a "statewide backbone" for energy service delivery; a diversity of energy service providers; and available financing. Weaknesses included funding, particularly for weatherization; overlapping roles among energy service providers; limited new market entrants; complex regulation; and insufficient protections for low-income customers. The Department also identified a lack of specific greenhouse gas emissions targets as a gap in programming. The Department's subsequent comments made additional recommendations to the Commission, including that:

- The Commission recommend that the General Assembly only authorize use of Energy Efficiency Charge (EEC) funds collected from electric vehicle (EV) charging for transportation supply chain management;
- The Commission use its authority to clarify the roles and responsibilities of Energy Efficiency Utilities and Distribution Utilities where there is overlap in their delivery of energy services;
- The Electric Efficiency Charge should not be used for Delivered Fuel Thermal and Process Fuels Efficiency, unless the home is primarily heated with electricity;
- An "all-fuels" utility was not needed at this time.

Conclusion

Conclusion

Title 30 tasks the Department with policy, planning and regulatory functions. The Department strives to provide the best possible advocacy on behalf of the public interest. We also understand that in contested matters, our advocacy will almost always be opposed by some parties. The Department's advocacy and leadership in examining and evaluating alternative regulation, protecting ratepayer interests through comprehensive policy planning and targeted, integrated policy execution and advocacy lies at the heart of the Department's regulatory mission even if our positions don't please everyone.

In executing this mission, the Department remains at all times mindful of its role as the ratepayer advocate. As this report makes clear, this past year has seen many hours and much intellectual capital in advancing the totality of ratepayer interests specifically, and the public interest more generally, through advocacy in traditional rate cases, as well as in proceedings regarding the basics of rate regulation more generically. The Department looks forward to continuing this work in the coming years.

[i] This year the report has been produced but the underlying Act has sunset, etc.,