



State of Vermont
Department of Public Service
112 State Street
Montpelier, VT 05602-2001
<http://publicservice.vermont.gov>

[phone] 802-828-2811
[fax] 802-828-2342
[TDD] 800-734-8390

January 15, 2018

Office of Legislative Council
State of Vermont General Assembly
115 State Street
Montpelier, VT 05633-5301

RE: Certificate of Public Good; Complaint Protocol Report and Recommendations

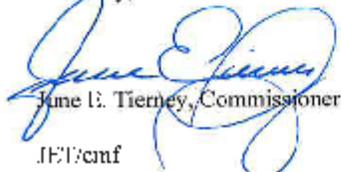
Dear Senators and Representatives,

The Department of Public Service now files its second annual report for complaints concerning the alleged failure of a company to comply with the terms and conditions of a certificate of public good issued by the Public Utility Commission, as established in 30 V.S.A. § 248 Sec. 5c. This report also includes recommendations regarding monitoring of a company's compliance with a certificate of public good.

The Consumer Affairs and Public Information (CAPI) division investigates and reports on complaints about the potential failure of certificate of public good (CPG) holders to abide by the terms and conditions of their CPG. Quarterly reports will consolidate complaints of a similar nature involving the same company and provide some information about the Department's progress with its investigation and response to complainants. Complaint information received by other agencies and the Public Utility Commission are sent to CAPI for consolidation into its reporting. The quarterly statistical reports for CPG complaints are included in the report and are also available online at: <http://publicservice.vermont.gov/cpg-complaint-protocol>.

The Department gratefully acknowledges collegial support and training provided by the Agency of Natural Resources about investigatory techniques to CAPI staff in 2017.

Sincerely,

A blue ink signature of June E. Tierney, written in a cursive style.
June E. Tierney, Commissioner
JET/cmf





Complaints about Alleged Violations of the Terms
and Conditions of Certificates of Public Good

Annual Report for the Year Ending December 31, 2017

Submitted to:

Vermont General Assembly

Consumer Affairs and Public Information Division
Vermont Department of Public Service
January 15, 2018

Contents

Introduction..... 3

Complaints Researched by Consumer Affairs and Public Information at the Vermont Department of Public Service for the period January 1, 2017 through December 31, 2017 3

 Complaint Data for January through March 2017 4

 Complaint Data for April through June 2017 4

 Complaint Data for July through September 2017 5

 Complaint Data for October through December 2017..... 5

Recommendations Regarding Monitoring of a Company’s Compliance with a Certificate of Public Good 6

For more information contact Consumer Affairs and Public Information, Vermont Department of Public Service, 112 State St., Montpelier, VT 05620-2601, 802-828-4051, PSD.consumer@vermont.gov.

Introduction

In response to Act 130 in 2016, 30 V.S.A. §§ 248, 248a, Annotation, *Department of Public Service; Certificate of Public Good; Complaint Protocol* (2015, No. 130 (Adj. Sess.)) § 5c the Consumer Affairs and Public Information division (CAPI) of the Vermont Department of Public Service (Department) drafted a protocol to address complaints about the potential failure of Certificate of Public Good (CPG) holders to abide by the terms and conditions of their CPG. The protocol was implemented on September 1, 2016. At that time, the Public Utility Commission (PUC) began referring complaints about potential CPG violations to CAPI and including direction in Commission orders to CPG holders to follow the complaint protocol. The Vermont General Assembly expanded the Department's investigative authority to include administrative citations, effective July 1, 2017.

CAPI investigates and reports on complaints about the potential failure of Certificate of Public Good (CPG) holders to abide by the terms and conditions of their CPG. The public may make complaints by email, in writing, by phone or in person to the Department. Alternatively, a CPG holder or other agency that receives a complaint may collect basic details and forward that information to the Department. However, no complainant is required to contact a company or CPG holder prior to filing a complaint with the Department.

CAPI will investigate complaints and work toward informal resolution between the complainant and the CPG holder. If an informal resolution cannot be reached, and following an investigation, the Department has reason to believe the CPG holder has violated sections 246, 248, 248a, or 8010, the Department will follow the statutory process for issuing an administrative citation.

The quarterly statistical reports for CPG complaints are available online at:
<http://publicservice.vermont.gov/cpg-complaint-protocol>

Complaints Researched by Consumer Affairs and Public Information at the Vermont Department of Public Service for the period January 1, 2017 through December 31, 2017

CAPI investigated sixteen complaints in 2017. Three complaints were determined to be about something other than the terms and conditions of the CPG and were addressed in other ways. In two instances CAPI had sufficient reason to believe no violation of the terms and conditions of the CPG had occurred and closed the case accordingly. In two instances, CAPI had reason to believe that further investigation may be necessary to determine whether or not a violation may have occurred and advised the complainant of the process to file a complaint with the Public Utility Commission. Two complaints were resolved. No draft citations were issued by the Department in 2017 nor were any civil penalties enforced by the Department. Remedial actions were recommended in two instances. Seven complaints remain open and under active investigation. CAPI staff provided testimony to the Public Utility Commission recommending a penalty in one case relating to the potential violation of terms and conditions of a CPG. The complaint itself predates this reporting period.

Complaint Data for January through March 2017

CPG Complaints for Q1 2017								
Energy type	Project town	Other complaints in past 6 months?	Type of complaint	Investigated?	Potential violation?	Resolved by CAPI?	Referred to PSB?	Referred to ANR?
Solar	Ludlow	No	Aesthetics	No*	N/A	N/A	N/A	N/A
Solar**	Westminster	No	Aesthetics/ inaccurate info on application/ natural resources	Yes	N/A	N/A	N/A	Yes#
Wind	Georgia	Yes	Ice on blades	Yes	Yes	No	Yes###	No
Wind	Vergennes	Yes	Noise	Yes	Yes	No	Yes	No
Meteorologic tower	Derby Line	No	Inadequate application^	No	No	No	No	No

* CPG never issued by the Board; application was denied
 ** CPG amendment (second phase), still under review by the Board
 # ANR provided comments to the Board about the project
 ### Complainant filed with the Board directly without referral
 ^ Complainant's objection to the project receiving a CPG because of an improper easement were addressed by the Board in its order approving it. Complainant filed a Motion for Reconsideration

Complaint Data for April through June 2017

CPG Complaints for Q2 2017								
Energy type	Project town	Other complaints in past 6 months?	Type of complaint	Investigated?	Potential violation?	Resolved by CAPI?	Referred to PSB?	Referred to ANR?
Wind	Searsburg	No	Violation of blasting plan	Yes	Yes	No	Yes	N/A

^ Complainant's objection to the project receiving a CPG because of an improper easement were addressed by the Board in its order approving it. Complainant filed a Motion for Reconsideration

Complaint Data for July through September 2017

CPG Complaints for Q3 2017								
<i>Energy type</i>	<i>Project town</i>	<i>Other complaints in past 6 months?</i>	<i>Type of complaint</i>	<i>Investigated by CAPI?</i>	<i>Potential violation?</i>	<i>Resolved by CAPI?</i>	<i>Referred to PUC?</i>	<i>Referred to ANR?</i>
Solar	West Rutland	No	setback & screening requirements	Yes	No	Yes	No	No
Solar	Rutland	Yes	Screening	Yes*				
Solar	Hyde Park	No	Screening	Yes	Yes	Yes	No	No
Solar	Rutland	Yes	Lack of notice	Yes*				
Solar	Shoreham	No	Wetland disturbance/screening/fill	Yes*	Yes*			Yes
Natural gas	Monkton	Yes	Blasting	No			**	
Solar	Burlington	No	Noncompliance with construction requirements	Yes*	Yes*			

* Complaint is still under investigation
 ** Complaint initiated at PUC

Complaint Data for October through December 2017

CPG Complaints for Q4 2017								
<i>Energy type</i>	<i>Project town</i>	<i>Other complaints in past 6 months?</i>	<i>Type of complaint</i>	<i>Investigated by CAPI?</i>	<i>Potential violation?</i>	<i>Resolved by CAPI?</i>	<i>Referred to PUC?</i>	<i>Referred to ANR?</i>
Wind	Searsburg	Yes	Blasting damage	Yes *				
Natural gas	Monkton	Yes	Blasting damage	Yes*				
Wireless	Coverntry	No	Excessive radio frequency	Yes				

* Complaint is still under investigation

Recommendations Regarding Monitoring of a Company's Compliance with a Certificate of Public Good

Act 130 in 2016, 30 V.S.A. §§ 248, 248a, Annotation, *Department of Public Service; Certificate of Public Good; Complaint Protocol* (2015, No. 130 (Adj. Sess.)) § 5c provides... (f) With its report filed under this section on or before January 1, 2018, the Commissioner shall make recommendations regarding the establishment of and payment for an ongoing process for monitoring a company's compliance with a certificate of public good for the purpose of reducing the filing of individual complaints under this section.

The Department's Consumer Affairs Division has added the additional responsibilities detailed in Act 130 to its current obligations. This Division is a hybrid of consumer advocacy, public information and consumer complaint resolution services. The Division is managing to balance its pre-existing obligations and duties with investigating and reporting about CPG complaints. This new activity dovetails with the consumer complaint resolution processes CAPI engages in on behalf of Vermonters with complaints about utility practices.

The Act contemplates the Department to now make recommendations regarding the potential for developing a process to monitor all companies' compliance with the terms and conditions of 246, 248, 248a, or 8010 CPGs. There were approximately 868 CPGs issued in 2017 by the Public Utility Commission. Many CPGs include numerous conditions, one of which is to adhere to the project plan, which in and of itself may have many elements, adding to the complexity of monitoring. The Department has now managed the CPG complaint process for just five quarters and is still gaining skill and experience with its investigatory practices. Although there is not enough data or information at present for the Department to make firm projections, clearly there will be increased costs relating to developing and sustaining proactive and ongoing additional regulation of Vermont businesses and residential renewable energy generators. Further, the Department emphasizes that such an effort would require significant additional staffing with all of the associated costs for maintaining employees plus transportation costs for field visits. As a matter of good governance, the Department recommends that if such an ongoing regulatory or monitoring process is to be created that it be properly resourced. These additional resources would need to be funded.