

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Monday, November 19, 2018 1:36 PM  
**To:** Burke, Dan  
**Cc:** Porter, James; Allen, Riley  
**Subject:** GMP rate case

**Importance:** High

All –

This is to let you know that I met with the Governor this morning and explained why I now think that there should be no settlement in the GMP rate case that is pending. I explained that ratepayers have little to gain from settling out now that we have nailed down advantageous terms about the “microgrids” in the Section 248 cases, and that there is a need for the PUC to either accept our position on GMP’s Powerall investment or for the PUC to explain why an investment of this magnitude on the terms proposed by the Company is in the public interest and appropriately considers the ratepayer interest. The Governor understands and supports my assessment that this case should not be settled. So, please proceed accordingly.

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Monday, November 19, 2018 10:03 AM  
**To:** Porter, James  
**Subject:** Re: GMP Rate Case Info - Privileged and Confidential

This was perfect. Please thank Dan for me.

Sent from my iPhone

On Nov 19, 2018, at 08:55, Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** "Burke, Dan" <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>  
**Date:** November 19, 2018 at 8:55:01 AM EST  
**To:** "Porter, James" <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>  
**Subject:** GMP Rate Case Info - Privileged and Confidential

GMP now seeks a 5.43% base rate increase. With the tax savings credit, there will be a nine month decrease of 0.9%.

The Department recommends a 5.30% base rate increase. With the tax savings credit, there will be a nine month decrease of 1.03%.

GMP's request is based on a \$23.53 million revenue deficiency. The Department's recommendation is based on a \$22.95 million revenue deficiency (i.e. \$576 difference between Department and GMP).

The largest remaining disagreement is the Powerwall Program (\$15.22 million project). There is a decent chance that the PUC will require that GMP defer recovery of Powerwall costs until it offers the program on a permanently tariffed basis. The other remaining areas of dispute relate to blanket and T&D projects (which the Department will most likely lose).

Let me know if there is any other information you need.

Thanks,  
Dan

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**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Friday, November 09, 2018 2:05 PM  
**To:** Porter, James; Tierney, June  
**Subject:** 18-0974 - GMP Rate Case Brief  
**Attachments:** 18-0974 - 2018.11.09 - PSD Brief.pdf

I've attached a PDF copy of the full brief for the GMP rate case, including sections on the recommendations for reductions on blanket spending and other T&D spending.

Thanks,  
Dan

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STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 18-0974-TF

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Tariff filing of Green Mountain Power Corporation requesting a 5.45% increase in its base rates effective with bills rendered January 1, 2019, to be fully offset by bill credits through September 30, 2019	
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**DEPARTMENT OF PUBLIC SERVICE’S POST-HEARING BRIEF**

**Contents**

I. Background.....	1
II. Tesla Powerwall Program .....	4
III. Heat Pump Hot Water Heater Program .....	12
IV. Transmission and Distribution Blankets.....	14
V. Other T&D Adjustment Recommendations.....	18
VI. Conclusion .....	19

**I. Background**

In this traditional cost-of-service rate case, the Green Mountain Power Corporation (“GMP”) requests that the Public Utility Commission (the “Commission”) approve a 5.43% base rate increase. The Department of Public Service (the “Department”), after conducting multiple rounds of comprehensive discovery and filing detailed prefiled direct and surrebuttal testimony, now recommends that the Commission approve a 5.30% rate increase. Assuming the Commission allows GMP’s proposed rate year credit for tax savings, the Department’s recommendation would result in a 1.03% rate decrease for the nine-month period commencing January 1, 2019.

While the difference between these recommended rate levels appears to be narrow, the Department and GMP have fundamental disagreements regarding appropriate ratemaking

treatment of several key components of GMP's rate filing. The two primary areas of disagreement relate to the appropriate ratemaking treatment of capital spending associated with GMP's Tesla Powerwall 2.0 innovative pilot (the "Powerwall Program") and various transmission and distribution ("T&D") costs. This brief focuses on the areas of remaining dispute between GMP and the Department.

The most significant disagreement between the Department and GMP in this case relates to appropriate rate base treatment of GMP's innovative services, with the Powerwall Program generating the strongest disagreement. To be clear, as the Department's testimony in this case indicates, the Department is supportive of GMP's attempts to respond to challenges inherent in the modern electricity and energy marketplaces through innovative service offerings. The Department recognizes that GMP is operating in a rapidly evolving industry and is tasked with addressing not only stagnant sales, but must also respond to legislative mandates and state policies that promote increased reliance on small-scale renewable generation and mitigate reliance on fossil-fuel based technologies. GMP's attempts to respond to these challenges, which present a host of financial, engineering, and operational constraints, are laudable. However, with respect to innovative service offerings, especially those services that involve the sale of products and services that are generally available to consumers from other third-parties, it is imperative that regulators remained focused on maintaining an appropriate balance of risk between GMP's customers and shareholders. While change in Vermont's electric industry is a necessary inevitability, and GMP should continue to seek the implementation of technologies that reduce peak-consumption and promote environmental sustainability, regulatory policy should not depart from ensuring that regulatory investments reflect appropriate least-cost planning principles and

provide actual value to rate payers. Regulatory policy and standards must also evolve to ensure that GMP, and other utilities, are not able to utilize their natural monopoly market position to develop an unfair competitive advantage in providing non-traditional unregulated services.

At the outset, it is also important to clarify that although this is a traditional cost-of-service rate review, the majority of GMP's expenses are not subject to Commission review in this proceeding. Specifically, the vast majority GMP's operations and management (O&M) expenses are fixed for ratemaking purposes as a result of the Base O&M Cost Formula (commonly referred to as the "O&M Platform") that the Commission approved in Docket 7770.<sup>1</sup> Likewise, the bulk of GMP's power supply and transmission costs, which account for more than half of the company's overall cost-of-service,<sup>2</sup> are subject to adjustments pursuant to the alternative regulation plan approved by the Commission in Docket 17-3232. The Department and GMP also agree that GMP's proposed rate of return on equity ("ROE") of 9.3% is reasonable. The Department's review in this case, therefore, primarily focused on GMP's proposed capital spending. The Department found that the majority of GMP's proposed capital spending relates to necessary and justified projects that satisfy traditional cost-of-service ratemaking principles. However, the Department recommends that the Commission disallow rate base treatment of capital projects that total approximately \$25.67 million, which would reduce GMP's proposed allowed rate base by approximately \$13.72 million. Each of the Department's recommended adjustments are discussed below.

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<sup>1</sup> Winn pf. at 6.

<sup>2</sup> Exhibit GMP-ER-1 (Rev).

The Department has also included two attachments to this brief to demonstrate the cost-of-service calculations utilized by the Department to calculate its overall rate recommendation. Attachment 1 includes revised calculations for Exhibit PSD-KJM-10, which details the Department's recommended reductions to GMP's transmission and distribution blanket work orders.<sup>3</sup> Attachment 2 includes a version of the Department's cost-of-service model (most recently filed as Exhibit PSD-JMT-3-REV) that has been revised to account for the modified recommendation on blanket work orders.

## **II. Tesla Powerwall Program**

In this case, GMP seeks approval for placing capital costs associated with the Powerwall Program into rate base. The total Powerwall Program innovative pilot cost is expected to be approximately \$15.22 million, though GMP seeks rate base treatment of slightly less than that amount due to expected delays in the project completion date.<sup>4</sup> The Department recommends that the Commission defer rate base treatment of the Powerwall Program costs until after GMP receives approval from the Commission to offer the Powerwall Program as a permanent tariffed service offering.

GMP's current Temporary Limited Regulation Plan (the "17-3232 Plan"), as approved by the Commission in Docket 17-3232, authorizes GMP to pursue so-called innovative pilots on a non-tariffed basis for up to an 18 month term.<sup>5</sup> Under the 17-3232 Plan, GMP is not required to receive express approval from the Commission prior to commencing a non-tariffed innovative

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<sup>3</sup> See Tr. 10/25/18 (addressing the need to revise Exhibit PSD-KJM-10 to account for the nine-month rate year that is the basis of GMP's overall proposed cost-of-service).

<sup>4</sup> Ryan pf. reb. at 4.

<sup>5</sup> *Petition of Green Mountain Power Corporation for approval of a temporary limited regulation plan pursuant to 30 V.S.A. §§ 209, 218 and 218d*, Case No. 17-3232-PET, Order of 11/29/2017.

pilot. Instead, GMP is only required to provide written notice to the Department, the Commission, and Efficiency Vermont at least 15 days prior to commencing the pilot.<sup>6</sup> GMP is then required to make periodic updates at six month intervals regarding the progress of a pilot program.<sup>7</sup> If GMP seeks to offer the product or service beyond the 18 month pilot term, it must receive approval from the Commission to offer it as a tariffed service. However, the “innovative pilot program does not guarantee rate recovery for any innovative services.”<sup>8</sup>

GMP’s authority to pursue the Powerwall Program derives from this innovative pilot mechanism, which was approved by the Commission as part of the 17-3232 Plan. The 17-3232 Plan itself was approved by the Commission pursuant to 30 V.S.A. § 218d, which governs alternative regulation plans generally. Since the authority to implement the Powerwall program ultimately derives from § 218d, then the substantive regulatory review provisions of § 218d should govern the Commission’s review of GMP’s innovative services, including the Powerwall Program. In relevant part, § 218d(d) provides that

Alternative regulation may include such changes or additions to, waivers of, or alternatives to traditional ratemaking procedures, standards, and mechanisms, including substantive changes to rate base-rate of return rate setting, as the Commission finds will promote the public good . . . .

The Powerwall Program is a creature of alternative regulation, and is accordingly subject to the legal standards applicable to alternative regulation plans under § 218d. With respect to those standards, the General Assembly established requirements that the Commission “establish a system of regulation in which [GMP has] clear incentives to provide *least cost* energy service”<sup>9</sup>

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<sup>6</sup> *Id.* at 16.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Id.* at 18.

<sup>9</sup> 30 V.S.A. § 218d(a)(1) (emphasis added).

and “establish a reasonably balanced system of risks and rewards.”<sup>10</sup> The Department recognizes the necessity of enabling electric distribution utilities to develop and sell non-traditional services that generally would not be permitted under traditional cost-of-service regulation. Regulatory review of these projects, however, should correspondingly also not be constrained by the rigid precepts of traditional regulation. Indeed there may be innovative services that do not yield a net financial benefit for ratepayers, but nonetheless may be justified by providing ancillary environmental or other non-monetary benefits that directly promote state energy policies.

With respect to the Powerwall Program, to be clear, the Department is not opposed to this project as a general matter. The Department recognizes that if successfully implemented and managed, the Powerwall Program has the potential to provide meaningful benefits to ratepayers, including those who do not directly participate in the Powerwall Program. The Department, however, has concerns that the overall scale of the project coupled with uncertainty in GMP’s financial modeling does not allow for regulators to make an informed decision as to whether this project places a disproportionate share of risk on ratepayers at this time. The Department, accordingly, recommends that the Commission defer rate base recovery on the Powerwall Program until GMP fully completes the 18 month pilot period and presents data and information sufficient to justify offering the program as tariffed service offering on a permanent basis. It is the Department’s expectation that completing the pilot period will allow GMP to provide the Commission with actual data and information regarding Powerwall Program performance to determine whether risks associated with the project are appropriately balanced between GMP’s ratepayers and shareholders. Indeed, the pilot programs are deliberately established as a test

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<sup>10</sup> 30 V.S.A. § 318d(a)(7).

phase prior to full implementation of a more robust program. If GMP decides to not to pursue a tariffed offering for the Powerwall Program or is unable to receive authorization from the Commission to provide the service under a tariff, then the Department recommends that the Powerwall Program be treated as a below-the-line expense.

The primary benefit of the Powerwall Program is that it will allow for GMP to reduce load during peak events. This “peak-shaving,” if successful, will allow for GMP to reduce its Forward Capacity Market (“FCM”) and Regional Network Services (“RNS”) costs.<sup>11</sup> The Powerwall Program is expected to provide other ancillary benefits, including energy “arbitrage” and voltage and reactive power management.<sup>12</sup> However, based on the financial modeling completed by GMP that accounts for projected FCM and RNS savings, the Powerwall Program is not expected to yield a positive net present value (“NPV”) for non-participating ratepayers for ten years.<sup>13</sup>

As noted above, the Department does not dispute that the Powerwall Program has the potential to provide ratepayer benefits. However, the Department is concerned that GMP has not adequately considered variables and/or potential unanticipated occurrences and events that could affect the financial viability of the project. First, GMP has not adequately considered how degradation of the Powerwall batteries can affect the ability to successfully track peaks in future years. Battery degradation will not affect GMP’s ability to draw on the full capacity of the batteries during a peak event, but as GMP recognizes, battery degradation will limit the length of time that GMP can draw on the batteries.<sup>14</sup> GMP’s own testimony acknowledges that the

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<sup>11</sup> Castonguay pf. reb. at 5.

<sup>12</sup> *Id.*

<sup>13</sup> Winn pf. reb. at 14; Tr. 10/25/18 at 67 (Castonguay).

<sup>14</sup> Tr. 10/25/18 at 72 (Castonguay).

batteries will likely need to be utilized for up to four hours to allow for GMP to successfully hit peaks.<sup>15</sup> GMP's witnesses also acknowledged that if other utilities in ISO-New England territory pursue significant residential and utility-scale storage buildout, then peak periods in the ISO New England market will likely be "wider" and require that GMP draw on the Powerwalls for longer periods than are reflected in the modeling.<sup>16</sup> As the Department's testimony reflects, battery degradation (even at the 3% rate expected by GMP) can have a substantial negative impact on the overall financial performance of the project, even in periods where GMP is only required to draw on the batteries for up to four hours.<sup>17</sup> However, it may be necessary for GMP to draw on the batteries for even longer periods than four hours to successfully track peaks, which would exacerbate the negative financial impact of battery degradation.

Similarly, GMP's modeling did not consider potential changes to the rules governing the calculation of FCM and RNS charges over the life of the Powerwall project.<sup>18</sup> Nor did GMP conduct any sensitivity analysis to determine where the break-even point, with respect to net-present value, would be for this project if actual RNS and FCM costs fall below projections. Such information would provide immense value to regulators, because it would clearly demonstrate the extent of market variances that would need to occur to result in the project generating a net financial loss. For an innovative service that is justified primarily on yielding financial benefits to ratepayers, providing this information should be a necessity. Moreover, as noted above, GMP's own projections demonstrate that the Powerwall Project is not anticipated to

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<sup>15</sup> Castonguay pf. reb. at 15.

<sup>16</sup> Tr. 10/25/18 at 118–19 (Smith) ("I think we have some margin for that in our model. But no, that's a downside risk").

<sup>17</sup> Dawson pf. reb. at 8–11; Exhibit PSD-CCD-2.

<sup>18</sup> Tr. 10/25/18 at 118 (Smith).

yield a positive net-present value for approximately ten years. Therefore, if actual RNS and/or FCM savings are lower than projections, then the positive net present value “flip” will necessarily not occur until after ten years, if ever. This ten year period is important, because not only does it demonstrate that non-participating customers will provide an indirect subsidy to support the project for almost a decade (under presumed market and performance conditions), but the Tesla performance guarantee only lasts for a ten year period.<sup>19</sup> Therefore, any performance drops from battery degradation or other operational problems with the Powerwalls would compound net losses that would result if actual RNS and FCM costs are lower than expected.

It is important to clarify that the Department does not challenge the validity of GMP’s FCM and RNS cost projections. Although the Department’s testimony indicates that the Department finds the projections to be questionable,<sup>20</sup> the Department has not conducted its own independent projections of RNS and FCM costs.<sup>21</sup> The Department’s primary concern with the projections is not tied to their accuracy, but rather is directed at GMP’s lack of consideration for how potential variability in those projections could affect the overall viability of the project. For a project that is expected to generate only marginal benefits under ideal circumstances, these types of analyses should have been conducted to provide the Commission with a better understanding of the magnitude of risk that will be placed on ratepayers if the Powerwall Project

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<sup>19</sup> Tr. 10/25/18 at 62 (Castonguay).

<sup>20</sup> Dawson pf. at 29, 39.

<sup>21</sup> Tr. 10/25/18 at 163 (Dawson).

is rate based. The Department, however, expects that this type of analysis could be conducted by GMP if and/or when it seeks to tariff this service.<sup>22</sup>

Additionally, the overall scope of this innovative pilot exacerbates the ratepayer risk. The total cost of the pilot is expected to be \$15.22 million (though GMP currently seeks rate base treatment for slightly less than the full \$15.22 million due to delays in the buildout<sup>23</sup>). For context, in its pending multi-year rate plan proposal (Case No. 18-1633-PET), GMP requests that the Commission approve annual capital spending at an average amount of \$85 million for the next three years.<sup>24</sup> In other words, this one innovative pilot program has a total capital cost that amounts to approximately 18% of GMP's proposed annual capital budget for the next three years. The Department recognizes that the 17-3232 Plan, which authorizes innovative pilots, does not contain an overall project cost cap. However, the cost of the Powerwall Program substantially dwarfs the aggregate cost of all other innovative pilots that GMP has pursued to date.<sup>25</sup> Moreover, GMP's own analysis indicates that the Powerwall Program will yield a substantially lower net benefit per dollar invested (based on \$/kW-month) than the utility-scale storage projects and other pilot programs that are included in this case.<sup>26</sup> Although the

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<sup>22</sup> Indeed, during the evidentiary hearing, GMP witness Douglas Smith indicated that he conducted an informal analysis to test downside risk associated with reduced RNS costs shortly in advance of the hearing. Tr. 10/25/18 at 121 (Smith). While Mr. Smith may be correct that reduced RNS costs will have minimal impact on the financial performance of the project, neither the Department nor the Commission have been able to evaluate this analysis. Tr. 10/25/18 at 133 (Smith). Indeed, this is precisely the type of analysis that the Department would expect to see from GMP if it seeks to permission from the Commission to offer the Powerwall Program as a tariffed service.

<sup>23</sup> Castonguay pf. reb. at 4–5).

<sup>24</sup> Tr. 10/25/18 at 37–38 (Otley).

<sup>25</sup> Castonguay pf. at 4.

<sup>26</sup> Tr. 10/25/18 at 73–75 (Castonguay); Castonguay pf. reb. at 25 (listing the net benefit/(Cost) of the following programs: Curtailable Load Rider - \$6.96/kW-month; Sensibo Heat Pump Controls - \$6.34/kW-month; Pilot Demand Response Rider - \$5.68/kW-month; Milton Solar-Battery Project - \$5.19/kW-month; Critical Peak Rider - \$4.40/kW-month; Aquanta Water Heater Controls - \$3.76/kW-month; EV Car Chargers – \$3.59/kW-month; Tesla/Sonnen Residential Batteries - \$1.67/kW-month; Water Heater Program - \$(16.68)/kW-month).

Department recognizes the need for a portfolio approach to tackling environmental and statutory mandates, such as Renewable Energy Standard (“RES”) compliance, it is challenging to reconcile GMP’s rationale for making its largest investment into the project that is expected to yield the narrowest return — especially where that project’s success is largely dependent on market forces outside of GMP’s control.<sup>27</sup> In any event, the overall scale of this project will magnify the risk that is carried by ratepayers once the project is placed into rate base.

Based on the numerous uncertainties and unknown variables that have the potential to affect the Powerwall Program’s overall financial performance, the Department recommends that the Commission defer allowing rate base recovery at this time. Section 218d(a)(7) mandates that the Commission establish a reasonable balance of risk between GMP’s shareholders and ratepayers. The Powerwall Program is justified largely by its potential FCM and RNS savings. If it is placed into rate base, GMP’s ratepayers will shoulder virtually all financial risk that could manifest if the batteries and market forces do not perform as projected. While the Department does not believe that it is necessary or appropriate to require that GMP shield ratepayers from all risk associated with this investment, the overall scope of that risk is unknown based on the evidentiary record in this case. Accordingly, the Department believes that the Commission should require that GMP complete the pilot phase for the Powerwall Program and seek rate base recovery only after GMP receives permission to offer the Powerwall program as a tariffed service. Data and performance information generated during the pilot phase should provide the Department and the Commission with a clearer understanding of the performance and market

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<sup>27</sup> A more limited-scale pilot for the Powerwall Program and staggered build-out of the batteries may have been a more reasonable approach. However, the Department recognizes that GMP has already made significant progress in its attempt to install 2,000 Powerwall batteries through its partnership with Tesla.

risks and make a more informed decision as to whether this service should be treated as an above-the-line expense covered by ratepayers. Deferring recovery is also not a punitive measure. Instead, the result would be regulatory lag, but GMP would still be able to receive full ratepayer recovery assuming it can demonstrate with more certainty the benefits of the project. This approach yields an appropriate balancing of risk that is consistent with the 17-3232 Plan and 30 V.S.A. § 218d. Also, assuming the Powerwall Program is removed from rates, then it would also be appropriate to remove benefits and revenues associated with the program within GMP's cost-of-service, which are accounted for in the Department's cost-of-service modeling and ultimate rate recommendation.

### **III. Heat Pump Hot Water Heater Program**

The Department also recommends that the Commission require that GMP remove costs and revenues associated with the Heat Pump Hot Water Heater ("HPHW") innovative pilot from its cost-of-service. When a regulated natural-monopoly public utility, such as GMP, offers products or services that are available in the commercial marketplace, there is a risk that the utility's monopoly position will allow it to gain unfair competitive advantage within that marketplace.<sup>28</sup> To counter this risk, the Department believes it is necessary to establish regulatory safeguards that protect both ratepayers and competitive service providers. In this case, the Department has proposed a list of factors that it believes should be considered by the Commission when evaluating whether to allow rate base treatment of a service or product that is generally available within the commercial marketplace,<sup>29</sup> including:

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<sup>28</sup> Winn pf. at 17.

<sup>29</sup> Winn pf. at 17–18.

- Whether the utility can demonstrate the ability to load-control the usage of the service in a manner that benefits all ratepayers and not just the program participants;
- Whether financial benefits of the program exceed the costs to non-participating ratepayers;
- If cost of the program exceed monetary benefits for non-participating customers, whether any non-monetary benefits (such as environmental attributes) achieved by the program are necessary to satisfy legislative or regulatory mandates and the net financial loss to ratepayers is justifiable based on those non-monetary benefits.

In addition, the Commission should require that any bad debt associated with the program is borne by the program participants or the utility's shareholders. The Commission should also require the utility to open its billing system to third-party entities that offer similar competing products.<sup>30</sup>

With respect to the HPHW innovative pilot, the Department's concern is that because GMP lacks the ability to load control the HPHWs installed during the pilot phase, there is no basis to differentiate GMP's service offering from other third-party entities that provide the same service. There is no peak shaving or other direct or discernable non-participant benefit that would justify allowing GMP to put costs and revenue from this program in rates. The Department accordingly recommends that the HPHW innovative pilot costs and revenues receive below-the-line treatment and be removed from GMP's cost-of-service. The Department recognizes that unlike the Powerwall Program, the HPHW innovative pilot has generated positive financial returns that will benefit GMP's non-participating ratepayers in the 2019 rate

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<sup>30</sup> Winn pf. at 18.

year. Thus, removal of the HPHW program will actually put some slight upward pressure on GMP's regulated revenue requirement. Nonetheless, since there is no discernable non-participating ratepayer benefit (other than revenues) for this pilot, the Department does not believe there is a sufficient basis to overlook the competitive marketplace concerns and allow its costs into rate base.

In testimony, GMP indicated that it intends to make load-control a requirement for the HPHW program if it is offered as a tariffed service in the future.<sup>31</sup> Assuming that load-control is technically feasible and included in a future tariff for this program, the Department would not object to including costs and revenues derived from the tariffed services in rates in the future.

#### **IV. Transmission and Distribution Blankets**

The Department recommends that the Commission reduce GMP's requested costs for transmission and distribution ("T&D") blanket work orders ("blankets") as follows: (1) Regulators and Capacitors blanket by \$253,954; (2) Transformers blanket by \$665,495; and (3) Distribution Lines blanket by \$8,199,387. In total the Department recommends that the Commission reduce GMP's blanket spending by \$9,118,835.

In GMP's 2018 rate case, Case No. 17-3112-TF, the Department and GMP reached a broad Memorandum of Understanding (the "17-3112 MOU") that established, *inter alia*, documentation standards for capital projects to satisfy the known and measurable standard and a requirement that GMP not include any individual capital projects with a total cost in excess of \$250,000 in its blankets.<sup>32</sup> The 17-3112 MOU resolved the Department and GMP's respective

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<sup>31</sup> Tr. 10/25/18 at 58 (Castonguay).

<sup>32</sup> *Investigation into GMP's tariff filing requesting an overall rate increase in the amount of 4.98%, to take effect January 1, 2018*, Case No. 17-3112-INV, 11/09/17 MOU, ¶ 27, Exhibit 2.

arguments about blanket spending in that case. However as stated in Paragraph 22, “[e]xcept where expressly stated otherwise” the 17-3112 MOU resolved issues related to blanket spending “without establishing precedent in future cases.”<sup>33</sup> The only other reference to blankets in the 17-3112 MOU is contained in Paragraph 27, which establishes the requirement that individual projects that exceed \$250,000 be removed from blanket. The substantive provisions of the 17-3112 MOU are otherwise silent with respect to blankets. Likewise, the known and measurable documentation standards codified through Exhibit 2 to the 17-3112 MOU have no express requirements related to blanket spending.

In this case, the Department presented testimony from an outside expert witness who opined that blanket spending does not satisfy known and measurable requirements.<sup>34</sup> Under the Commission’s precedent, the known and measurable standard is defined as “changes that are measurable with a reasonable degree of accuracy and have a high probability of being in effect in the adjusted test year.”<sup>35</sup> However, the Department’s witness did not recommend that the Commission remove all of GMP’s blanket spending under the known and measurable standard. Instead, he developed a set of criteria to reduce a portion of GMP’s proposed blanket spending for the rate year.<sup>36</sup> Specifically, he recommended that:

- Forecasted blanket spending attributable to new customers should be allowed because GMP based its rate period off of forecasted loads, which includes revenues associated with new customers;<sup>37</sup>

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<sup>33</sup> *Id.* at ¶ 22.

<sup>34</sup> Mara pf. at 31.

<sup>35</sup> Docket 17-3112-INV, Order of 12/21/17, at 12 (citing Dockets 6946/6988).

<sup>36</sup> Mara pf. at 45–46.

<sup>37</sup> Mara pf. at 45.

- Replacement of failed equipment, including poles in need of replacement, be allowed.<sup>38</sup>
- Costs associated with work required to “do upgrades and relocate joint facilities in order to accommodate joint-use parties on GMP’s pole” as part of its pole attachment tariff (i.e. make-ready work) be allowed.<sup>39</sup>
- Reliability upgrades, relocation of lines to road, preparing structures for distribution automation be disallowed.<sup>40</sup>

The Department does not dispute that the Commission has traditionally allowed the use of blanket spending in rate cases under the known and measurable standard. The Department also does not seek to have the Commission modify its longstanding definition for the known and measurable standard or otherwise modify the standards agreed to by the Department and GMP in Exhibit 2 to the 17-3112 MOU. However, the Department has repeatedly raised concerns regarding the continued growth of blanket spending and GMP’s overreliance on blankets for capital expenditures.<sup>41</sup> The 17-3112 MOU and its requirement regarding individual projects that exceed \$250,000 helps to provide regulatory transparency over costs that were previously buried within blankets. However, GMP’s distribution blanket for the 2019 fiscal year, even when excluding projects that exceed \$250,000, totals \$17,016,601.<sup>42</sup> That single blanket covers a substantial amount of GMP’s overall proposed capital investment without any detailed regulatory review of the actual spending within the blanket. While the blanket is developed based on historical averaging (which is a methodology long-accepted by the Commission), it still

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 46.

<sup>40</sup> *Id.*

<sup>41</sup> *See e.g.*, Case No. 17-3112, Schultz pf.

<sup>42</sup> Exhibit PSD-KJM-10.

leaves a significant amount of capital spending essentially unchecked by the regulatory review process. Also, the Department's testimony, which evaluates trends in T&D blanket spending over the past five years, demonstrates that many of GMP's T&D blankets show significant annual variances without any clear explanation or justification.<sup>43</sup>

The Department does not believe that a wholesale departure from the Commission's traditional approach to allowing blanket spending under the known and measurable standard is warranted. GMP should be allowed significant flexibility in its T&D spending to ensure safe and reliable service. However, based on the recent trajectory of the blankets, the underlying necessity of which is not clearly documented, it is imperative that regulators take a more detailed review of cost-drivers of each blanket, many of which are exceeding inflation. The criteria outlined by the Department's expert witness achieve a fair balance of allowing GMP to prospectively include necessary portions of blanket spending in rates, but would defer recovery of portions of the blanket spending over which GMP retains a fair degree of discretionary control.

Like the Department's recommendation on the Powerwall Project, this recommendation is not punitive. It would result in regulatory lag, but it would not prohibit GMP from recovering prudently incurred T&D costs. Importantly, the recommendation is also bound by clearly defined criteria that should allow the Department and the Commission to better understand and review the cost-drivers for GMP's T&D capital investments in the future. Accordingly, the Department recommends that the Commission reduce GMP's blanket spending by \$9,118,835 consistent with the calculations detailed in Attachment 1 to this brief.

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<sup>43</sup> Mara pf. at 37-42.

### V. Other T&D Adjustment Recommendations

The Department recommends that the Commission disallow capital costs associated with two Motor Operated Air Break (“MOAB”) switches that GMP proposes to install in the rate year. Specifically, the Department recommends that Commission disallow spending for the Newbury MOAB project (GMP Project No. 159729) and the Castleton MOAB project (GMP Project No. 159730). Together, these projects account for \$767,055 of proposed capital spending.<sup>44</sup>

GMP’s MOAB switches are:

Connected to SCADA which allows for remote operation of the switches. However, to be clear, these switches do not reduce the frequency of outages. Rather, the remote operation helps to reduce the duration of an outage. Most of the projects have existing gang operated air break (GOAB) switches in place that require manual operation but serve the same purpose as the MOAB switches.<sup>45</sup>

The Department’s concern with these projects is two-fold. First, GMP has not sufficiently demonstrated a need for replacing the existing GOAB switches. GMP represents that replacing the GOAB switches with MOAB switches will yield reliability and safety improvements.<sup>46</sup> However, GMP has not produced evidence to demonstrate any notable reliability concerns that demand immediate attention for the Newbury and Castleton MOAB projects.<sup>47</sup> Moreover, the switch to MOAB’s has the potential to limit downtime durations, but it will not necessarily reduce outage frequency. Second, GMP has not provided any evidence that the existing GOAB switches have physically degraded to the extent that replacement is necessary. Indeed, during the evidentiary hearing, a GMP witness acknowledged that the existing GOAB switches are not

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<sup>44</sup> Exhibit PSD-KJM-4.

<sup>45</sup> Mara pf. at 16.

<sup>46</sup> Fiske pf. at 6.

<sup>47</sup> Mara pf. at 16.

being replaced because they are at the end of their useful life.<sup>48</sup> The existing, functional GOAB switches have been paid for by ratepayers, and GMP's general assertions regarding improved reliability without specific underlying data regarding historical reliability of these switches do not justify replacement of these switches at this time.

The Department also recommends that the Commission reduce the cost for the Line 74, Section I project (GMP Project No. 153588), which involves rebuilding GMP Line 74, by \$13,871. The Department's recommendation is based on the following testimony:

Project 153588 includes using 336 tree wire on a single phase line. A more appropriate design would be to use 1/0 tree wire on a single-phase line. A single-5 phase line should carry no more than 50 to 70 amps, and a 1/0 single-phase line is 6 rated for over 200 amps. Using 336 tree wire adds to the cost with no benefit to the 7 rate payers.<sup>49</sup>

Although this reduction is relatively small, the Department maintains that it should be adopted by the Commission because GMP has not demonstrated how the full cost of this project is justified by ratepayer benefit.

## **VI. Conclusion**

Based on the evidentiary record in this proceeding, the Department recommends that the Commission allow GMP to raise its base rates by 5.3%, effective January 1, 2018, based on the following recommended adjustments:

- Removal costs and revenues associated with the Powerwall Program;
- Removal of costs and revenues of the HPHW innovative pilot program;
- Reduction of GMP's proposed T&D blanket spending by \$9,118,835;

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<sup>48</sup> Tr. 10/25/18 at 139 (Fiske).

<sup>49</sup> Mara pf. at 26.

- Removal of the Newbury and Castleton MOAB switch projects;
- Reduction of costs for the Line 74, Section I project.

Adoption of each of these recommendations will result in just and reasonable rates. Adopting the Department's recommendations on the Powerwall and HPHW heaters will also establish a regulatory framework under which risk associated with innovative services will be appropriately balanced between GMP's ratepayers and shareholders and concerns regarding unfair competition will be mitigated. Additionally, if the Commission approves GMP's proposed tax savings credit, adopting these adjustments will result in a 1.03% rate decrease for the nine-month period commencing January 1, 2019.

Dated at Montpelier, Vermont, this 9<sup>th</sup> day of November, 2018

Vermont Department of Public Service

By: /s/ Daniel C. Burke  
Daniel C. Burke, Special Counsel  
Department of Public Service  
112 State Street  
Montpelier, VT 05620  
(802) 828-4019  
Dan.burke@vermont.gov

## Porter, Louise

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**From:** Tierney, June  
**Sent:** Tuesday, October 30, 2018 8:05 PM  
**To:** Grace, Sheila  
**Cc:** Porter, James  
**Subject:** RE: GMP Milton Microgrid: PFD

I think fire-lighting would be good because this plays an important role in the rate case. I can look at anything you think I should see while I am in Germany – I will have email access while I am there.

**From:** Grace, Sheila  
**Sent:** Tuesday, October 30, 2018 12:49 PM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>  
**Subject:** GMP Milton Microgrid: PFD

Hi June,

Do you want to see GMP's proposal for decision and/or any edits that I may suggest? I am just wondering whether I need to light a fire under GMP to get me a copy in time for your review. It is due to the PUC by November 8<sup>th</sup>.

Thank you.

Best,

Sheila

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Friday, October 19, 2018 10:18 AM  
**To:** Burke, Dan  
**Cc:** Porter, James  
**Subject:** Re: weekly report follow up

Thanks, Dan. Please keep me current on these developments.

Sent from my iPhone

On Oct 19, 2018, at 10:00, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

Thank you June. Also, I wanted to provide some follow-up on the conversation that we had yesterday regarding adjustments to our rebuttal testimony recommendations. As a refresher, earlier this week Geoff Hand called me on behalf of GMP with legal concerns regarding some recommendations from one of our expert witnesses regarding discrete transmission and distribution projects in this rate case. The witness recommended that the Commission disallow costs for a series of T&D projects for various reasons. This week, GMP prepared a list of those projects that it believes were actually included in last year's rate case (17-3112) and covered by the PUC's final order in that case. I reviewed GMP's list and documentation from last year's rate case and agree that three of those projects were included in last year's rate case, and that we should accordingly retract our disallowance recommendation on those projects. This was an oversight that Brian or I should have identified prior to filing direct testimony, but apparently GMP also missed it because the company did not identify the issue until after all testimony had been filed (the recommendations were originally in our direct testimony). Brian strongly disagrees and believes that the 17-3112 MOU established a broad capital spending reduction and should not apply to individual projects that were included in last year's rate case. However, as a legal matter, those projects have already received PUC approval for placement in rate base, and I believe that we would be acting in bad faith to maintain our recommendations on these three projects (absent a prudence challenge based on the management of the actual construction or cost-overruns, which we have not alleged). Again, Brian strongly disagrees with me on this point, but I have already communicated with the expert witness and the witness agrees that the recommendations should be retracted. I've also advised Brian that GMP is likely to cross-examine him on this issue, and if we do not remove the projects, we will have significant exposure and his credibility as a witness will almost certainly be damaged.

There is another set of T&D projects that are more ambiguous. GMP asserts that costs for a series of projects (totaling \$3.5 million) were included in the distribution line "blanket" work order that was approved by the PUC in Docket 17-3112. However, GMP did not provide project-specific documentation on these projects last year. Instead, GMP included project-specific capital folders for these costs in this rate case as a result of the MOU requirement regarding T&D projects that exceed \$250,000. In other words, GMP's position is that although these projects were not individually included in last year's rate approval, the underlying costs for the projects were. I spoke with the expert witness about these projects this morning, and he feels that we should revise our recommendations on these projects as well. As a practical matter, they are already constructed, and the witness feels that the costs of these projects were captured by the blanket that the Commission approved last year.

Our expert witness is still crunching number to resolve how the revised recommendations will affect our overall rate recommendation. I also coordinated a call between him, Brian, and Eddie Ryan from GMP to

discuss a couple minor COS modeling discrepancies that GMP identified. Brian and our witness agreed with a couple issues that Eddie Ryan identified. Accordingly, we plan to file a revised COS model with the Commission in advance of the hearings, which start next Thursday. We hope to have the revised COS filed Monday, but I will make sure you have an opportunity to see it before it is filed.

Another issue that I wanted you to be aware of is that yesterday Brian also conveyed misgivings that the documentation standards that we agreed to in last year's MOU (so called "Attachment 2") allow GMP too much flexibility in avoiding cost-benefit analyses. Attachment 2 contains three exceptions for the cost-benefit analysis requirement for capital projects. The exceptions apply where a capital project is related to: (1) an immediate safety risk; (2) in-kind replacement of aged/damaged equipment; and (3) a regulatory requirement. You may be aware, but Brian has significant concern about a series of GMP projects related to repairs and upgrades to the Molly's Falls dam facility in Plainfield/Marshfield. Part of the reason that GMP is completing these projects is that the Towns and ANR have both been pressing GMP to make a series of repairs and upgrades to the facility. Apparently this facility has been a significant source of friction between GMP, ANR, and the Towns. The Town of Plainfield filed a complaint with the PUC and ANR has threatened legal process under the Clean Water Act. Brian believes that GMP should be required to conduct a cost/benefit analysis to determine whether the dam should be removed entirely instead of repaired (note that this dam creates the reservoir for the heavily used Molly's Falls pond recreation area, which is a state park). Brian wanted to address these projects in rebuttal testimony, but I firmly rejected any attempt to raise new arguments that were not present in our direct testimony. I also disagree that GMP has violated the requirements of Attachment 2 with these projects as it appears that the two of the exceptions are likely applicable (safety and regulatory requirements). However, Brian told me that if he is cross-examined on issues related to Attachment 2 and the 17-3112 MOU, he is likely to respond that he believes that GMP is either not following it (and use the Molly's Falls dam as an example) or testify that it needs to be revised. I advised him against doing so, and he expressed concern that his legal counsel was not supporting him. Brian also indicated that he believes that we should attempt to use GMP's pending alternative regulation docket to modify Attachment 2 and the documentation standards. I am strongly opposed to revising documentation standards at this point, but I wanted you to be aware that Brian wants to revisit this issue.

Thank you,  
Dan

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**From:** Tierney, June  
**Sent:** Friday, October 19, 2018 7:56 AM  
**To:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>  
**Cc:** Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>  
**Subject:** weekly report follow up

Hi Jim –

Please see below from the weekly report. I just wanted to make note of how much I appreciate the very capable lawyering Dan is doing on this case. He is so consistent in his excellence that it would be easy to just take it for granted. I especially appreciated his nuanced dealings with opposing counsel this week to clarify whether there is a need to amend the PSD's testimony to ensure that the Department's advocacy on capital spending is consistent with the obligations under the MOU from the last rate case. Please make note of this commendation for his next review. Hope you have a great weekend! JET

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GMP Rate Case (Case No. 18-0974-TF) – (DB, JC, post) – Green Mountain Power ("GMP") seeks a 5.45% base rate increase that will be temporarily offset by a \$27.4 million credit to ratepayers (representing the return of federal tax savings), resulting in a net 0.5% rate decrease for the first nine months of 2019. GMP's rebuttal testimony revised its rate increase request downward to 5.43% and a 0.9% nine month

rate decrease, which reflects the impact of a proposed special contract with GlobalFoundries. The Department's surrebuttal testimony recommended that the Commission approve a 4.96% base rate increase and a 1.37% nine month decrease when accounting for one-time tax credit. GMP and Renewable Energy Vermont ("REV") both serves written discovery requests on the Department October 12. The Department's responses are due October 19 and evidentiary hearings are scheduled for October 25 and 26.

June E. Tierney  
Commissioner  
Vermont Department of Public Service  
112 State Street, 2nd Floor  
Montpelier, Vermont 05620-2701

## Porter, Louise

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**From:** Burke, Dan  
**Sent:** Thursday, October 18, 2018 4:46 PM  
**To:** Tierney, June; Porter, James; Allen, Riley; Winn, Brian; McNamara, Ed; Flint, Carol  
**Subject:** 18-3160 - GMP/GlobalFoundries Special Contract - PUC Order  
**Attachments:** 1792036972112616onbase-unity\_1089752910787118443872803.pdf

I've attached an order that the PUC issued in the GMP/GlobalFoundries special contract docket. The Commission has not ordered or requested additional process, but plans to defer to issuance of a final order on the contract until it issues final orders in the rate case and rate design docket.

-Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
dan.burke@vermont.gov (email)

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 18-3160-PET

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Green Mountain Power Corporation request for approval of a special contract with GlobalFoundries U.S. 2 LLC regarding approval of term contract pursuant to 30 V.S.A. Section 229	
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Order entered: 10/18/2018

**ORDER EXTENDING REVIEW PERIOD OF SPECIAL CONTRACT**

On September 11, 2018, Green Mountain Power Corporation (“GMP”) and GlobalFoundries U.S. 2 LLC (“GlobalFoundries”) filed a petition with the Vermont Public Utility Commission (“Commission”) for approval of a term contract pursuant to 30 V.S.A. Section 229. The proposed contract would govern the provision of electric service for GlobalFoundries for a term beginning on January 1, 2019, and ending on September 30, 2022.

On September 20, 2018, the Commission conducted a joint status conference in this case and Case No. 18-2850-TF, which concerns the tariff filing of GMP regarding proposed rate design changes. At the status conference, the Vermont Department of Public Service (“Department”) stated that it intended to file its recommendation on GMP’s proposed contract with GlobalFoundries by October 11, 2018.

On October 11, 2018, the Department filed a letter recommending that the Commission approve the proposed contract. The Department states that the “special rate provides incentives for retaining GMP’s single largest consumer without resulting in a direct unjust or unreasonable cross-subsidy from other GMP ratepayers” and that the contract “represents an appropriate balance of the economic policy objectives set out in 30 V.S.A. § 218e as well as Vermont’s broader energy policy goals.”

Under Section IX of the Commission’s Order establishing standards and procedures regarding the filing and review of proposed special contracts pursuant to 30 V.S.A. § 229, the Commission is expected to issue a final decision within 60 calendar days, but may extend its review of a special contract for good cause.<sup>1</sup> Given that the issues in Case No. 18-2850-TF and

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<sup>1</sup> Order of 12/24/14 at 10.

in Case No. 18-0974-TF, which concerns proposed changes to GMP's base rates, are relevant to consideration of the proposed contract, the Commission finds good cause to issue a final decision concurrently with the final rulings in those proceedings, which is anticipated to be before January 1, 2019.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 18th day of October, 2018.

 _____ Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
 _____ Margaret Cheney	)	COMMISSION
	)	
 _____ Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: October 18, 2018

Attest:   
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov))*

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**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Thursday, October 04, 2018 9:28 AM  
**To:** Tierney, June  
**Cc:** Fargo, Audrey  
**Subject:** 18-0974 (GMP Rate Case) - B. Winn Surrebuttal Testimony

June,

I left a hard copy of Brian Winn's surrebuttal testimony draft for your review with Audrey this morning. Please let me know if you like me to send you a PDF copy by email.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
dan.burke@vermont.gov (email)

MEMORANDUM

To: Commissioner June Tierney  
From: Daniel Burke  
Date: October 2, 2018  
Re: Draft Rebuttal Testimony for GMP Rate Case (PUC Case 18-0974)

Commissioner Tierney:

I have enclosed copies of testimony drafts for the Department's rebuttal testimony for the pending GMP rate case. Our testimony is due next Monday, October 8. Testimony drafts for the following witnesses are included:

- Ed McNamara – Power Supply
- Jacob Thomas (GDS) – Cost of Service Modeling;
- Christopher Dawson (GDS) – Power Supply and Innovative Services;
- Kevin Mara (GDS) – Transmission and Distribution;
- Richard Baudino (J. Kennedy) – Cost of Capital

Brian Winn provided a draft of his testimony to me this afternoon. I plan to have a copy of his testimony ready for your review as early as possible tomorrow, but I wanted to ensure that you had at least seven days to review the testimony from our other witnesses.

Our rebuttal testimony is rather straightforward. With a few minor exceptions, the Department maintains all of its initial recommendations from its direct testimony. Jacob Thomas is still revising the cost of service modeling, but it appears that our final recommended rate increase will likely fall between 4.8 and 4.9%. For context, the Department initially recommended a rate increase of 4.70%. In its rebuttal testimony, GMP proposes an increase of 5.43%, which accounts for accepting some Department recommendations and reflects the impact of the GlobalFoundries special contract.

The increase to the Department's recommended rate adjustment from the direct to rebuttal testimony is largely the result of the GlobalFoundries special contract, but also accounts for GMP modifying its capital investments for the rate year (GMP is removing a small portion of the Powerwall program from the rate year due to scheduling, which actually puts upward pressure on our recommendation since we recommend removal of that entire project). However, as part of the special contract, GlobalFoundries agreed to forego recovery of the tax credit, which increases the Department's recommended nine month rate decrease to approximately 1.4% (GMP now proposes a nine month 0.9% reduction as a result of the tax credit). I will provide you with our updated cost-of-service modeling and firm recommendation numbers as soon as possible.

I also wanted to flag to you that Ed McNamara's testimony directly references communications that he has had with GMP (Doug Smith) regarding some of the Department's power supply procurement process recommendations over the past couple weeks. Please let me know if that or any other portions of our testimony raise any concerns or questions.

cc: James Porter

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Monday, October 01, 2018 5:46 PM  
**To:** Burke, Dan; Winn, Brian; Porter, James  
**Subject:** RE: GMP Discovery Response to Q26

Thanks, Dan. And thanks everyone for the constructive meeting we had this morning to work out our path forward on this. I much appreciate everyone's time and attention to this important issue.

---

**From:** Burke, Dan  
**Sent:** Monday, October 01, 2018 4:52 PM  
**To:** Winn, Brian <Brian.Winn@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Cc:** Tierney, June <June.Tierney@vermont.gov>  
**Subject:** RE: GMP Discovery Response to Q26

June,

After our meeting this morning, Jim and I spoke with Geoff Hand. Geoff explained that GMP provided fiscal year data instead of the test year data in response to the discovery request because the fiscal year data is the oldest 12 month period of data for the specific data request that GMP is able to produce without a expending a significant amount of time and effort.

For context and clarity, we asked for the twelve month period for a test year that ended March 31, 2013. GMP produced data for the fiscal year that ended September 30, 2013. Thus, there is a six month gap in the data we asked for and what GMP produced.

According to Geoff, the problem with generating the data for the test year is that GMP and CVPS apparently tracked some of the underlying costs differently prior to the merger. The fiscal year incorporated the merged company's costs, but the test year data did not do so in a manner that would yield a ready response to our discovery request. Basically, someone from GMP's finance team would need to parse through CVPS's old records to find and pull the relevant data and create a new spreadsheet. Apparently this process would take considerable time and effort, and would require GMP to produce a document not currently in its possession (which militates against any the likelihood of success in a discovery dispute). GMP's finance team is also in the midst of year-end closings (the company's fiscal year ended yesterday) and has limited bandwidth right now.

I spoke with Brian, and while he still has concerns about the company's data production, he agreed to try to update his rate driver analysis using the data that was provided. Brian's update will necessitate the use of some estimation, which Geoff Hand understood would need to happen based on the data that the company provided. Again, the underlying argument is not directly related to any rate adjustment recommendations, but using the imprecise data will still allow Brian's testimony to drive home the larger point about rate base growth pushing rates.

Feel free to let me know if you have additional questions.

Thanks,  
Dan

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**From:** Winn, Brian  
**Sent:** Saturday, September 29, 2018 2:50 PM  
**To:** Porter, James <James.Porter@vermont.gov>

**Cc:** Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>; Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Subject:** Re: GMP Discovery Response to Q26

Jim,

I did not mean to imply that we would not follow required procedure. It seems like the next logical step is that call with GMP on Monday. We should notify them that the call is our good faith effort under rule 26.

Brian.

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**From:** Porter, James <[james.porter@vermont.gov](mailto:james.porter@vermont.gov)>  
**Sent:** Saturday, September 29, 2018 2:28 PM  
**To:** Winn, Brian  
**Cc:** Burke, Dan; Tierney, June  
**Subject:** Re: GMP Discovery Response to Q26

Hi Brian,

Under Rule 26 we are required to have a conference with the opposing party to make a good faith effort to resolve our discovery dispute before filing a motion to compel. As such I think it's premature to notify the PUC that your testimony will be delayed.

I thought Dan's suggestion about preparing all of your testimony but that one piece makes sense since we can't really do anything else until Monday. I also think we should set up a call with GMP for Monday and the three of us should meet early Monday and discuss.

Thanks.

Sent from my iPhone

On Sep 29, 2018, at 2:03 PM, Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)> wrote:

Dan,

I understand your approach but it is very unlikely to result in GMP's cooperation. They choose not to provide what I asked for. This wasn't a last minute surprise. If they were really interested in cooperating with us they would have told us a week ago why they could not comply and worked with us to find a solution. This fits the recent pattern of non-compliance. They did not do the required analysis on the micro grids and now the Molly Falls projects. They are not maintaining records of their decision making etc.

The only way to make them comply is to extract a price for non-compliance. They do not respect us at all. We need to get their attention and signal to the PUC that GMP's behavior is unacceptable. That is why I like alternative 2.

Brian.

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**From:** Burke, Dan <dan.burke@vermont.gov>  
**Sent:** Saturday, September 29, 2018 1:28 PM  
**To:** Winn, Brian; Tierney, June  
**Cc:** Porter, James  
**Subject:** Re: GMP Discovery Response to Q26

My apologies, I just saw this email chain. The rate driver argument is not directly germane to our actual rate recommendations, but I agree that a response to GMP's rebuttal testimony is warranted. We probably will not be able to follow up with GMP until Monday, but a deadline extension is likely not feasible since we are so close to the hearing dates (and the schedules for the other GMP cases are designed to work with the rate case schedule). My recommendation is to continue working on the other portions of your testimony that relate to our disallowance recommendations and leave a placeholder for the rate drivers analysis until we speak with GMP.

I know that we plan to get a draft to June ASAP, but it seems like we can get her a draft that covers other issues early next week and then provide a revised version that includes added information for the rate driver analysis closer to the deadline after we have found out what information we can actually get from GMP.

If GMP refuses, then I think we make the best use of the information that we do have, but flag to the Commission that the analysis may be flawed only because GMP failed to produce data during discovery and there is insufficient time to reasonably pursue a motion to compel.

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**From:** Winn, Brian  
**Sent:** Saturday, September 29, 2018 12:32:57 PM  
**To:** Tierney, June  
**Cc:** Burke, Dan; Porter, James  
**Subject:** Re: GMP Discovery Response to Q26

Ok. But in that case they should give me the information I requested. They needed the information I requested to create the test year ending 3/31/13 test year in the first place.

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**From:** Tierney, June <june.tierney@vermont.gov>  
**Sent:** Saturday, September 29, 2018 12:18 PM  
**To:** Winn, Brian  
**Cc:** Burke, Dan; Porter, James  
**Subject:** Re: GMP Discovery Response to Q26

I think the answer is "yes," assuming you received additional information.

Sent from my iPhone

On Sep 29, 2018, at 12:16, Winn, Brian <Brian.Winn@vermont.gov> wrote:

To be clear I cannot use a different start year without additional information from GMP (likely over and above what I requested in Q26). So the answer is "no."

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**From:** Tierney, June <june.tierney@vermont.gov>  
**Sent:** Saturday, September 29, 2018 11:30 AM  
**To:** Winn, Brian  
**Cc:** Burke, Dan; Porter, James  
**Subject:** Re: GMP Discovery Response to Q26

Thanks, Brian. I understand the simplest route is for the company to simply provide the information you have asked for. My question was whether it is possible to get where you are trying to go by a different way, and I understand your answer to be "yes." No worries.

Sent from my iPhone

On Sep 29, 2018, at 11:23, Winn, Brian <Brian.Winn@vermont.gov> wrote:

June,

To do the analysis from a different start year I would need the information requested in parts a through d plus a full COS model for that year. The simplest route would be to get the information I requested.

Brian

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**From:** Tierney, June <june.tierney@vermont.gov>  
**Sent:** Saturday, September 29, 2018 11:03 AM  
**To:** Winn, Brian  
**Cc:** Burke, Dan; Porter, James  
**Subject:** Re: GMP Discovery Response to Q26

Unless Dan counsels otherwise, it seems to me this is a pretty straightforward discovery dispute, and it seems to me we should follow up to get the information Brian has requested. If I correctly understand the scope and reasons for Brian's discovery inquiry, I would think a motion to compel wouldn't be necessary for this matter to be resolved properly.

Brian, is it possible for you to make your point about the pace of capital expenditures as the chief driver of rate pressure by using a shorter timeframe, i.e., by not using the FY 2013 data that the GMP seems to be qualifying in the answer you reproduced in your email below?

Sent from my iPhone

On Sep 29, 2018, at 09:29, Winn, Brian <Brian.Winn@vermont.gov> wrote:

Dan,

I hate to intrude on your weekend, but since time is limited, I wanted to get this in front of you as soon as possible. I am also copying June and Jim since they will need to weigh in on how we choose to deal with this.

The issue is that GMP has failed to respond to a discovery request for information that I need to respond to Otley's heavy criticism of my analysis of what is causing rate pressure at GMP. My request was completely reasonable and would allow me to perform my analysis in a manner suggested by Eddie Ryan in his rebuttal. It will clearly show that growth in GMP rate base (even excluding transmission) is the largest single driver of rate increases. Specifically, I requested information for the 2013 test year ending 3/31/13 (from GMP's 2014 Base Rate Filing Attachment B, Schedule 1: Cost of Service). The information they provided in their Excel file is noted as follows:

"Given the merger closing date, this analysis includes actual FY 2013 combined company information rather than the Test Year ended March 31, 2013 shown in the 2014 base rate filing, Actual 2013 information is pulled from BI queries and/or the FY 2013 information prepared and shown as the test year in our FY 2015 traditional rate filing."

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<GMP Discovery Resp Q26.docx>

## Porter, Louise

---

**From:** Winn, Brian  
**Sent:** Sunday, September 30, 2018 10:32 AM  
**To:** Tierney, June  
**Subject:** RE: GMP Discovery Response to Q26

See you then.

**From:** Tierney, June  
**Sent:** Saturday, September 29, 2018 4:31 PM  
**To:** Winn, Brian <Brian.Winn@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Burke, Dan <Dan.Burke@vermont.gov>  
**Subject:** Re: GMP Discovery Response to Q26

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**<GMP Discovery Resp Q26.docx>**

42

**Drinkwine, Stacey**

---

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**Sent:** Saturday, September 29, 2018 5:54 PM  
**To:** Burke, Dan  
**Subject:** Re: GMP Discovery Response to Q26

And thanks for your astute handling of a difficult situation. This calls for careful judgment, and this is where counsel-to-counsel relations are key.

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- 2) Contact GMP and the PUC and tell them my Surrebuttal will be delayed by the time that it takes GMP to comply with my legitimate discovery request. I know that this alternative is more complex, from a procedural standpoint, than I have indicated.

What do you suggest is our course of action?

Brian

P.S. They also failed to respond in at least two other areas but they are not as significant as question 26.

DPS3.Q10.b. GMP failed to provide the requested details, supporting calcs or invoices.

DPS3.Q14.b&c. GMP failed to provide the

actual number  
requested.

<GMP Discovery Resp  
Q26.docx>

**Drinkwine, Stacey**

---

**From:** Winn, Brian  
**Sent:** Thursday, September 27, 2018 4:21 PM  
**To:** Burke, Dan; McNamara, Ed; Allen, Riley; Porter, James  
**Cc:** Tierney, June  
**Subject:** Re: Meeting with GMP re Rate Case

No problem

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---

**From:** Burke, Dan <dan.burke@vermont.gov>  
**Sent:** Thursday, September 27, 2018 3:14 PM  
**To:** Winn, Brian; McNamara, Ed; Allen, Riley; Porter, James  
**Cc:** Tierney, June  
**Subject:** Meeting with GMP re Rate Case

I spoke with Geoff Hand this afternoon, and GMP is requesting that we have a brief meeting in advance of filing our rebuttal testimony (which both sides have done in advance of all testimony thus far in this case). Our testimony is due Monday, October 9, and based on our calendars, it appears that the only time that would work for us is around noon on Friday, October 5. Geoff thinks that time could work for GMP.

Let me know if that time is a problem for anyone.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
dan.burke@vermont.gov (email)

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Monday, September 24, 2018 10:02 AM  
**To:** Grace, Sheila  
**Cc:** Porter, James  
**Subject:** Re: MOU for the JV's 248s and rate case

Im fine with this and waiving 811. I don't need to sign this. I authorize counsel to sign. Thanks for checking.

Sent from my iPhone

On Sep 22, 2018, at 12:11, Grace, Sheila <[Sheila.Grace@vermont.gov](mailto:Sheila.Grace@vermont.gov)> wrote:

Good Morning June,

Attached please find the MOU for the JV 248 projects and the JV projects as they relate to the rate case. I am comfortable that this MOU reflects the settlement agreement ( there are some tracked language changes that provide for ease of reading and/or formatting into an MOU). There are also a few comment balloon sections that indicate I want to double-check the language with Brian Winn and Anne on Monday - in the interest of giving you the additional time to review this document I am emailing this document to you in advance of double-checking, especially since I do not believe any language discrepancy will be a major issue. Also, are you comfortable with the Department waiving our section 811 rights on the JV Milton case, since all other parties have entered into MOUs? I am assuming you will be the signatory this MOU?

Thank you.

Best,

Sheila

<2018-09-X GMP-DPS MOU re JV Projects draft to DPS (2).srg2018.09.22.docx>

**Drinkwine, Stacey**

---

**From:** Tierney, June  
**Sent:** Friday, September 21, 2018 12:24 PM  
**To:** McNamara, Ed  
**Cc:** Burke, Dan  
**Subject:** Re: 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

Thanks, Ed.

Sent from my iPhone

On Sep 21, 2018, at 12:14, McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)> wrote:

June,

Sorry for sending this along relatively late, but I just realized that I have to get draft testimony to Dan the day I get back from vacation (October 1). I'll have Maria and Dan working on it while I'm gone, but I might need until October 2, if that's ok. I expect that my surrebuttal will be extremely limited and only a few pages.

Ed

---

**From:** Burke, Dan  
**Sent:** Thursday, September 13, 2018 8:56 AM  
**To:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; Clark, Jake <[Jake.Clark@vermont.gov](mailto:Jake.Clark@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>; Potter, Dan <[Dan.Potter@vermont.gov](mailto:Dan.Potter@vermont.gov)>; Fischer, Maria <[Maria.Fischer@vermont.gov](mailto:Maria.Fischer@vermont.gov)>  
**Cc:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Subject:** 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

All,

GMP filed its rebuttal testimony late yesterday afternoon. I have downloaded all of the testimony and exhibits and saved them in the electronic case file here:

<S:\PSD\PSD - Cases\Dockets\18-0000s\18-0000s\18-0974-TF - GMP\Testimony\GMP\Rebuttal>

GMP filed rebuttal testimony from Kristen Carlson, Eddie Ryan, Doug Smith, Kirk Shields, Josh Castonguay, John Fiske, Brian Otley, and James Coyne (outside consultant on cost-of-capital).

I have not yet had a chance to review all of the testimony, but GMP has made a slight decrease to its proposed rate increase from 5.45% to 5.43%, which accounts for the rate impact of the GlobalFoundries special contract and reflects GMP's agreement to some of the DPS recommendations (the Department's proposed rate increase was 4.70%). However, since GlobalFoundries is forgoing the tax credit as part of its agreement with GMP, the tax credit for all other customers will increase. As a result, GMP now

proposes a -.90% rate decrease for the nine-month period covered by the tax credits (GMP initially filed for a -0.50% rate period decrease).

**Under the docket schedule, any discovery requests on GMP must be served by next Wednesday, September 19. Therefore, if you have any discovery requests, please get them to me no later than next Tuesday, the 18<sup>th</sup>, by noon.** GMP's discovery responses are then due on September 28, and our surrebuttal testimony is due by October 8. Accordingly, we will need to have testimony drafts to Commissioner Tierney by October 1. This schedule leaves very little time for reviewing discovery responses in advance of completing testimony, so we will need to be prepared to draft the bulk of our testimony in advance of having the final discovery responses.

Please let me know if you have any questions.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**Drinkwine, Stacey**

---

**From:** Winn, Brian  
**Sent:** Thursday, September 13, 2018 11:26 AM  
**To:** Tierney, June  
**Cc:** Porter, James; Burke, Dan  
**Subject:** RE: GMP rate case

Yes. Much appreciated.

-----Original Message-----

**From:** Burke, Dan  
**Sent:** Thursday, September 13, 2018 11:22 AM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Winn, Brian <Brian.Winn@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Subject:** RE: GMP rate case

Thank you June.

-----Original Message-----

**From:** Tierney, June  
**Sent:** Thursday, September 13, 2018 11:12 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>  
**Cc:** Winn, Brian <Brian.Winn@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Subject:** GMP rate case

Hi Dan -

Brian has explained to me a scheduling predicament he is in where he needs more time internally to prepare his sur-rebuttal testimony. Evidently there is crucial data that he needs that GMP won't be able to make available until 5pm on Sep. 28. So, I will accept the need for an exception this time, and therefore would ask that you please work with Brian to give him more time, recognizing this will eat into the 7 day rule. Also please keep in mind that I must have at least 3 days to review Brian's testimony and to have internal process around it as needed.

Thanks!

Sent from my iPhone

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Thursday, September 13, 2018 10:51 AM  
**To:** Winn, Brian  
**Subject:** Re: 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

I see the issue, and I don't want you to be rushed - especially after the discussion we had earlier this summer about making sure our filings don't need to be amended for accuracy. Please work with Dan to get a timing resolution for internal purposes that will give you more breathing room, but that will also leave me at least 3 days to review and digest your testimony.

Sent from my iPhone

On Sep 13, 2018, at 09:21, Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)> wrote:

June,

I have not copied anyone because I don't want to put you on the spot. I will need GMP discovery responses (some are numerical requests that I will need to then incorporate into an excel model) from GMP to adequately respond to their rebuttal. To be clear, GMP will not provide the information I need until after 5:00 pm on Friday 9/28. I will then need work the weekend to finish my testimony to get you a draft by Monday 10/1. Even though the testimony isn't due to be filed until a week later. When we rush we make mistakes.

Is there any wiggle room here?

Brian

---

**From:** Burke, Dan  
**Sent:** Thursday, September 13, 2018 8:56 AM  
**To:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; Clark, Jake <[Jake.Clark@vermont.gov](mailto:Jake.Clark@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>; Potter, Dan <[Dan.Potter@vermont.gov](mailto:Dan.Potter@vermont.gov)>; Fischer, Maria <[Maria.Fischer@vermont.gov](mailto:Maria.Fischer@vermont.gov)>  
**Cc:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Subject:** 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

All,

GMP filed its rebuttal testimony late yesterday afternoon. I have downloaded all of the testimony and exhibits and saved them in the electronic case file here:

<S:\PSD\PSD - Cases\Dockets\18-0000s\18-0000s\18-0974-TF - GMP\Testimony\GMP\Rebuttal>

GMP filed rebuttal testimony from Kristen Carlson, Eddie Ryan, Doug Smith, Kirk Shields, Josh Castonguay, John Fiske, Brian Otley, and James Coyne (outside consultant on cost-of-capital).

I have not yet had a chance to review all of the testimony, but GMP has made a slight decrease to its proposed rate increase from 5.45% to 5.43%, which accounts for the rate impact of the GlobalFoundries special contract and reflects GMP's agreement to some of the DPS recommendations (the Department's

proposed rate increase was 4.70%). However, since GlobalFoundries is forgoing the tax credit as part of its agreement with GMP, the tax credit for all other customers will increase. As a result, GMP now proposes a -.90% rate decrease for the nine-month period covered by the tax credits (GMP initially filed for a -0.50% rate period decrease).

**Under the docket schedule, any discovery requests on GMP must be served by next Wednesday, September 19. Therefore, if you have any discovery requests, please get them to me no later than next Tuesday, the 18<sup>th</sup>, by noon.** GMP's discovery responses are then due on September 28, and our surrebuttal testimony is due by October 8. Accordingly, we will need to have testimony drafts to Commissioner Tierney by October 1. This schedule leaves very little time for reviewing discovery responses in advance of completing testimony, so we will need to be prepared to draft the bulk of our testimony in advance of having the final discovery responses.

Please let me know if you have any questions.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**Drinkwine, Stacey**

---

**From:** Tierney, June  
**Sent:** Thursday, September 13, 2018 9:13 AM  
**To:** Burke, Dan  
**Cc:** Fargo, Audrey  
**Subject:** Re: 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

Perfect, Dan. No need for exhibits.

Sent from my iPhone

> On Sep 13, 2018, at 09:07, Burke, Dan <Dan.Burke@vermont.gov> wrote:

>

> June,

>

> I've attached the narrative testimony without exhibits (except for Eddie Ryan's revised cost-of-service model). Please let me know if you would also like the other exhibits, but I'm trying to avoid sending you a cluttered email.

>

> Thanks,

> Dan

>

> From: Tierney, June

> Sent: Thursday, September 13, 2018 9:05 AM

> To: Burke, Dan <Dan.Burke@vermont.gov>

> Cc: Fargo, Audrey <Audrey.Fargo@vermont.gov>

> Subject: Re: 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

>

> Audrey, could you work with Dan as needed to email me this testimony so I can read it on the bus tonight? Thanks.

> Sent from my iPhone

>

> On Sep 13, 2018, at 08:55, Burke, Dan <Dan.Burke@vermont.gov<mailto:Dan.Burke@vermont.gov>> wrote:

> All,

>

> GMP filed its rebuttal testimony late yesterday afternoon. I have downloaded all of the testimony and exhibits and saved them in the electronic case file here:

>

> S:\PSD\PSD - Cases\Dockets\18-0000s\18-0000s\18-0974-TF - GMP\Testimony\GMP\Rebuttal<file:///\\vsms.state.vt.us\Shared\PSD\PSD%20-%20Cases\Dockets\18-0000s\18-0000s\18-0974-TF%20-%20GMP\Testimony\GMP\Rebuttal>

>

> GMP filed rebuttal testimony from Kristen Carlson, Eddie Ryan, Doug Smith, Kirk Shields, Josh Castonguay, John Fiske, Brian Otley, and James Coyne (outside consultant on cost-of-capital).

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> I have not yet had a chance to review all of the testimony, but GMP has made a slight decrease to its proposed rate increase from 5.45% to 5.43%, which accounts for the rate impact of the GlobalFoundries special contract and reflects GMP's agreement to some of the DPS recommendations (the Department's proposed rate increase was 4.70%). However, since GlobalFoundries is forgoing the tax credit as part of its agreement with GMP, the tax credit for all other customers will increase. As a result, GMP now proposes a -.90% rate decrease for the nine-month period covered by the tax credits (GMP initially filed for a -0.50% rate period decrease).

>  
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>  
> Please let me know if you have any questions.

>  
> Thanks,  
> Dan

>  
> Daniel C. Burke  
> Special Counsel  
> Vermont Department of Public Service  
> 112 State Street  
> Montpelier, VT 05620-2601  
> (802) 828-4019 (office)  
> (802) 828-2342 (fax)  
> dan.burke@vermont.gov<mailto:dan.burke@vermont.gov> (email)

>  
>  
> <18-0974 - 2018.09.12 - K. Carlson PF Reb..pdf>  
> <18-0974 - 2018.09.12 - E. Ryan PF Reb..pdf>  
> <18-0974 - 2018.09.12 - D. Smith PF Reb..pdf>  
> <18-0974 - 2018.09.12 - J. Castonguay PF Reb..pdf>  
> <18-0974 - 2018.09.12 - Coyne PF Reb..pdf>  
> <18-0974 - 2018.09.12 - J. Fiskè PF Reb.pdf>  
> <18-0974 - 2018.09.12 - B. Otley PF Reb..pdf>  
> <18-0974 - 2018.09.12 - K. Shields PF Reb..pdf>  
> <18-0974 - 2018.09.12 - Exhibit GMP-ER-1 (Revised).pdf>

**Drinkwine, Stacey**

---

**From:** Burke, Dan  
**Sent:** Thursday, September 13, 2018 9:07 AM  
**To:** Tierney, June  
**Cc:** Fargo, Audrey  
**Subject:** RE: 18-0974 - GMP Rate Case - GMP Rebuttal Testimony  
**Attachments:** 18-0974 - 2018.09.12 - K. Carlson PF Reb..pdf; 18-0974 - 2018.09.12 - E. Ryan PF Reb..pdf; 18-0974 - 2018.09.12 - D. Smith PF Reb..pdf; 18-0974 - 2018.09.12 - J. Castonguay PF Reb..pdf; 18-0974 - 2018.09.12 - Coyne PF Reb..pdf; 18-0974 - 2018.09.12 - J. Fiske PF Reb..pdf; 18-0974 - 2018.09.12 - B. Otley PF Reb..pdf; 18-0974 - 2018.09.12 - K. Shields PF Reb..pdf; 18-0974 - 2018.09.12 - Exhibit GMP-ER-1 (Revised).pdf

June,  
I've attached the narrative testimony without exhibits (except for Eddie Ryan's revised cost-of-service model). Please let me know if you would also like the other exhibits, but I'm trying to avoid sending you a cluttered email.

Thanks,  
Dan

---

**From:** Tierney, June  
**Sent:** Thursday, September 13, 2018 9:05 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>  
**Cc:** Fargo, Audrey <Audrey.Fargo@vermont.gov>  
**Subject:** Re: 18-0974 - GMP Rate Case - GMP Rebuttal Testimony

Audrey, could you work with Dan as needed to email me this testimony so I can read it on the bus tonight? Thanks.

Sent from my iPhone

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<S:\PSD\PSD - Cases\Dockets\18-0000s\18-0000s\18-0974-TF - GMP\Testimony\GMP\Rebuttal>

GMP filed rebuttal testimony from Kristen Carlson, Eddie Ryan, Doug Smith, Kirk Shields, Josh Castonguay, John Fiske, Brian Otley, and James Coyne (outside consultant on cost-of-capital).

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Please let me know if you have any questions.

Thanks,  
Dan

Daniel C. Burke  
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Vermont Department of Public Service  
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(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Friday, August 31, 2018 5:24 PM  
**To:** Winn, Brian  
**Cc:** Allen, Riley  
**Subject:** Re: PUC Information Requests in GMP Rate Case (18-0974)

Yes, very interesting focus on the microgrids and related cost-of-service impacts, in particular the question about putting the MCs in ratebase before CPGs have been issued.

Sent from my iPhone

On Aug 31, 2018, at 16:46, Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)> wrote:

June/Riley,

Just making sure you saw the data requests from the PUC for GMP. Interesting to see what they are focusing on.

Brian

Get [Outlook for iOS](#)

---

**From:** Burke, Dan <[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov)>  
**Sent:** Thursday, August 30, 2018 2:39 PM  
**To:** Winn, Brian  
**Cc:** Porter, James  
**Subject:** RE: PUC Information Requests in GMP Rate Case (18-0974)

I do know that PUC took notice that we are not using Bill Schultz, and apparently that change was well received.

**From:** Winn, Brian  
**Sent:** Thursday, August 30, 2018 2:37 PM  
**To:** Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>  
**Cc:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>  
**Subject:** RE: PUC Information Requests in GMP Rate Case (18-0974)

Dan,

Between the PUC's questions to VGS yesterday and this request to GMP I sense that the PUC is paying careful attention to our testimony. One interpretation is that the Department appears to have more credibility with the PUC than we have been led to believe. Or maybe the PUC is going to become more activist because they don't believe we will follow through. In either event, we should be communicating this trend to June.

Brian

**From:** Burke, Dan

**Sent:** Thursday, August 30, 2018 2:01 PM

**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>; Potter, Dan <[Dan.Potter@vermont.gov](mailto:Dan.Potter@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Fischer, Maria <[Maria.Fischer@vermont.gov](mailto:Maria.Fischer@vermont.gov)>

**Cc:** Jacob Thomas <[Jacob.Thomas@gdsassociates.com](mailto:Jacob.Thomas@gdsassociates.com)>

**Subject:** PUC Information Requests in GMP Rate Case (18-0974)

All,

The PUC just issued the attached information requests to GMP in the rate case. Note that several of the requests refer directly to issues laid out in the Department's testimony.

Thanks,

Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
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(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**Drinkwine, Stacey**

---

**From:** Tierney, June  
**Sent:** Wednesday, August 15, 2018 7:04 PM  
**To:** Allen, Riley; Winn, Brian; McNamara, Ed; Porter, James  
**Cc:** Burke, Dan  
**Subject:** Fwd:

FYI. This too needs to be something we reflect on and discuss as we do our work on the GMP case and the VGS case.

Sent from my iPhone

Begin forwarded message:

**From:** "Porter, James" <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>  
**Date:** August 15, 2018 at 13:25:05 PDT  
**To:** "Tierney, June" <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>

<https://www.timesargus.com/articles/whos-advocating-for-vt-ratepayers/>

Jim Porter  
Director for Public Advocacy  
Vermont Department of Public Service  
112 State Street  
Montpelier, Vermont 05602  
[james.porter@vermont.gov](mailto:james.porter@vermont.gov)  
(802) 828-4003 office  
(802) 522-6685 cell

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Wednesday, August 15, 2018 9:56 AM  
**To:** Winn, Brian  
**Cc:** McNamara, Ed; Porter, James; Allen, Riley; Grace, Sheila; Potter, Dan; Margolis, Anne  
**Subject:** Re: Musings about our GMP meeting yesterday...

I agree, Brian. I think Sheila was trying to take us in that direction yesterday, but it turned out we had much else to sift through before we could go there. And I thank Jim for calling the meeting, because we clearly needed to do that sifting.

I repeat for everyone: I want to get to yes on this project, and I think it is appropriate for us to push for the financial assurance. But I do not want this push to come at the expense of the outcome we are targeting in the ratecase, which assumes ratebasing the microgrids and the rate effect of the related accounting treatment.

For our internal discussions we should have the full team(s), as Briannhas suggested. For meeting with GMP, I am thinking now that smaller may be better.

Sent from my iPhone

> On Aug 15, 2018, at 09:22, Winn, Brian <Brian.Winn@vermont.gov> wrote:

>

> June,

>

> At the meeting yesterday you indicated Riley, Jim, Ed and I should meet to determine the next steps. I would suggest that we include Dan and Sheila in this meeting. Before we have any communication with GMP we need to flesh out what we mean when we say the company needs to assume part of the financial risk. This is likely to be subject to broad interpretation internally.

>

> Brian

>

> -----Original Message-----

> From: Tierney, June

> Sent: Wednesday, August 15, 2018 8:59 AM

> To: McNamara, Ed <Ed.McNamara@vermont.gov>; Porter, James <James.Porter@vermont.gov>; Allen, Riley <Riley.Allen@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>; Grace, Sheila <Sheila.Grace@vermont.gov>; Potter, Dan <Dan.Potter@vermont.gov>; Margolis, Anne <Anne.Margolis@vermont.gov>

> Subject: Musings about our GMP meeting yesterday...

>

> FWIW, last night I reviewed GMP's direct engineering testimony from Steve Litkovitz. I know Steve to be a very credible witness (worked with him a lot when He and I were both at PSD). Steve is a man of few words, but he is pretty clear - at least to my satisfaction - that there are experimental benefits for this project (= think innovation). So, as we approach discussions with GMP following the filing of their rebuttal testimony, I would ask all of us to consider whether we are overlooking the strength of his testimony. Are we crediting Steve the engineer as much as we should? I understand from the team that GMP has concede/admitted that the justification for the project is purely economic. But Steve speaks for the company too, and that isn't what he is saying. His testimony speaks of engineering/experiential benefits which seem to me to be additional, however incremental.

>

> The fundamental issue here is what is the appropriate balance to strike in balancing SH and RP risk in our present environment, as we regulate the utility simultaneously in a rate case and a siting case. Regulatory history holds that utility SHs should bear the risk of unproven endeavors, as the rate regulated utility's mission is to provide safe and reliable service (not whiz-bang-gee-whiz service) at least-cost for which RPs are to pay just and reasonable rates.

- >
- > But we are not in the golden age of ratemaking now, where rates were set assuming ever-increasing load, and snoozy, familiar capital investments. We are now in an environment of dramatic change and transition. In addition to matters of affordability and winter fuel security, for purposes of grid/energy transformation, our utilities must also act competently on issues of renewable generation and integration, storage, data analytics, use of excess capacity, regional markets (and attendant dynamics and changes), etc. etc. etc.
- >
- > Our focus as regulators properly is on ratepayer advocacy for just and reasonable rates, as well as on planning for and facilitating a competent infrastructure system that supports RP need and demand for reliable and renewable energy. PSD answers for both of those responsibilities and must find a way to properly balance them, not elevate one over the other.
- >
- > The microgrid case is challenging us because it is a siting case that has significant rate implications in a pending ate case - as rational regulators with integrity, we recognize that a decision to support a 248 siting CPG effectively requires conceding the fairness of ratebasing at least some modicum of the project's capital cost.
- >
- > We need our utilities to be innovative so that our RPs are served by a grid that can keep up with the realities of tomorrow, not yesterday. The company needs to learn how to best deal with what is coming, and it is appropriate for RPs to pay the tuition because the lessons ultimately are being learned for their benefit and to more fully realize the larger public good of a modern, functional, efficient, and cost-effective grid and power supply. Steve Litkovitz testified that this project can help GMP do that. Let's give him the benefit of our doubt as regulators who don't wear hard hats as much as he does. And let's convey to GMP leadership that we need the company to assume part of the financial risk because that is the most transparent and effective means by which regulators can ensure that RPs are bearing a just and reasonable cost for utility innovation, as opposed to ill-considered false starts — an outcome that is in the utility's interests too.
- >
- > Sheila, please make sure Alex gets this email - I don't seem to have an email address for him. Thanks.
- >
- > Sent from my iPhone

## Porter, Louise

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**From:** Grace, Sheila  
**Sent:** Wednesday, August 15, 2018 9:14 AM  
**To:** Tierney, June  
**Subject:** Re: Musings about our GMP meeting yesterday...

Thank you June. I will forward to Alex.

> On Aug 15, 2018, at 8:59 AM, Tierney, June <June.Tierney@vermont.gov> wrote:

>

> FWIW, last night I reviewed GMP's direct engineering testimony from

> Steve Litkovitz. I know Steve to be a very credible witness (worked with him a lot when He and I were both at PSD). Steve is a man of few words, but he is pretty clear - at least to my satisfaction - that there are experimental benefits for this project (= think innovation). So, as we approach discussions with GMP following the filing of their rebuttal testimony, I would ask all of us to consider whether we are overlooking the strength of his testimony. Are we crediting Steve the engineer as much as we should? I understand from the team that GMP has concede/admitted that the justification for the project is purely economic. But Steve speaks for the company too, and that isn't what he is saying. His testimony speaks of engineering/experiential benefits which seem to me to be additional, however incremental.

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> The fundamental issue here is what is the appropriate balance to strike in balancing SH and RP risk in our present environment, as we regulate the utility simultaneously in a rate case and a siting case. Regulatory history holds that utility SHs should bear the risk of unproven endeavors, as the rate regulated utility's mission is to provide safe and reliable service (not whiz-bang-gee-whiz service) at least-cost for which RPs are to pay just and reasonable rates.

>

> But we are not in the golden age of ratemaking now, where rates were set assuming ever-increasing load, and snoozy, familiar capital investments. We are now in an environment of dramatic change and transition. In addition to matters of affordability and winter fuel security, for purposes of grid/energy transformation, our utilities must also act competently on issues of renewable generation and integration, storage, data analytics, use of excess capacity, regional markets (and attendant dynamics and changes), etc. etc. etc.

>

> Our focus as regulators properly is on ratepayer advocacy for just and reasonable rates, as well as on planning for and facilitating a competent infrastructure system that supports RP need and demand for reliable and renewable energy. PSD answers for both of those responsibilities and must find a way to properly balance them, not elevate one over the other.

>

> The microgrid case is challenging us because it is a siting case that has significant rate implications in a pending ate case - as rational regulators with integrity, we recognize that a decision to support a 248 siting CPG effectively requires conceding the fairness of ratebasing at least some modicum of the project's capital cost.

>

> We need our utilities to be innovative so that our RPs are served by a grid that can keep up with the realities of tomorrow, not yesterday. The company needs to learn how to best deal with what is coming, and it is appropriate for RPs to pay the tuition because the lessons ultimately are being learned for their benefit and to more fully realize the larger public good of a modern, functional, efficient, and cost-effective grid and power supply. Steve Litkovitz testified that this project can help GMP do that. Let's give him the benefit of our doubt as regulators who don't wear hard hats as much as he does. And let's convey to GMP leadership that we need the company to assume part of the financial risk because that is the most transparent and effective means by which regulators can ensure that RPs are bearing a just and reasonable cost for utility innovation, as opposed to ill-considered false starts — an outcome that is in the utility's interests too.

>

> Sheila, please make sure Alex gets this email - I don't seem to have an email address for him. Thanks.

>  
> Sent from my iPhone

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Wednesday, August 15, 2018 8:59 AM  
**To:** McNamara, Ed; Porter, James; Allen, Riley; Winn, Brian; Grace, Sheila; Potter, Dan; Margolis, Anne  
**Subject:** Musings about our GMP meeting yesterday...

FWIW, last night I reviewed GMP's direct engineering testimony from Steve Litkovitz. I know Steve to be a very credible witness (worked with him a lot when He and I were both at PSD). Steve is a man of few words, but he is pretty clear - at least to my satisfaction - that there are experimental benefits for this project (= think innovation). So, as we approach discussions with GMP following the filing of their rebuttal testimony, I would ask all of us to consider whether we are overlooking the strength of his testimony. Are we crediting Steve the engineer as much as we should? I understand from the team that GMP has concede/admitted that the justification for the project is purely economic. But Steve speaks for the company too, and that isn't what he is saying. His testimony speaks of engineering/experiential benefits which seem to me to be additional, however incremental.

The fundamental issue here is what is the appropriate balance to strike in balancing SH and RP risk in our present environment, as we regulate the utility simultaneously in a rate case and a siting case. Regulatory history holds that utility SHs should bear the risk of unproven endeavors, as the rate regulated utility's mission is to provide safe and reliable service (not whiz-bang-gee-whiz service) at least-cost for which RPs are to pay just and reasonable rates.

But we are not in the golden age of ratemaking now, where rates were set assuming ever-increasing load, and snoozy, familiar capital investments. We are now in an environment of dramatic change and transition. In addition to matters of affordability and winter fuel security, for purposes of grid/energy transformation, our utilities must also act competently on issues of renewable generation and integration, storage, data analytics, use of excess capacity, regional markets (and attendant dynamics and changes), etc. etc. etc.

Our focus as regulators properly is on ratepayer advocacy for just and reasonable rates, as well as on planning for and facilitating a competent infrastructure system that supports RP need and demand for reliable and renewable energy. PSD answers for both of those responsibilities and must find a way to properly balance them, not elevate one over the other.

The microgrid case is challenging us because it is a siting case that has significant rate implications in a pending rate case - as rational regulators with integrity, we recognize that a decision to support a 248 siting CPG effectively requires conceding the fairness of ratebasing at least some modicum of the project's capital cost.

We need our utilities to be innovative so that our RPs are served by a grid that can keep up with the realities of tomorrow, not yesterday. The company needs to learn how to best deal with what is coming, and it is appropriate for RPs to pay the tuition because the lessons ultimately are being learned for their benefit and to more fully realize the larger public good of a modern, functional, efficient, and cost-effective grid and power supply. Steve Litkovitz testified that this project can help GMP do that. Let's give him the benefit of our doubt as regulators who don't wear hard hats as much as he does. And let's convey to GMP leadership that we need the company to assume part of the financial risk because that is the most transparent and effective means by which regulators can ensure that RPs are bearing a just and reasonable cost for utility innovation, as opposed to ill-considered false starts — an outcome that is in the utility's interests too.

Sheila, please make sure Alex gets this email - I don't seem to have an email address for him. Thanks.

Sent from my iPhone

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Friday, August 10, 2018 12:29 PM  
**To:** Burke, Dan  
**Cc:** Porter, James; Winn, Brian  
**Subject:** Re: Privileged and Confidential - GMP Rate Case Testimony - Final Recommendations

Good work, team. Thanks.

Sent from my iPhone

On Aug 10, 2018, at 12:16, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

June,

Our consultants have finalized the modeling for all of our recommendations in the GMP rate case. GMP filed for a 5.45% base rate increase, which will be offset by the tax credit resulting in a 0.5% rate decrease for a nine month period. The Department's direct testimony recommends that the Commission approve a **4.70% base rate increase, which will result in 1.24% rate decrease for the nine month period covered by the tax credit.** In total, the Department recommends that approximately \$34 million of capital spending be removed from the rate request, resulting in revenue requirement reduction of \$3.426 million, which is based on the following recommendations:

- Removal of the Tesla Powerwalls -- \$15.2 million rate base reduction;
- Removal of Heat Pump Water Heaters -- \$534,000 rate base reduction;
- Reduction of Distribution Line Blanket Costs -- \$12,158 rate base reduction;
- Reduction to Large Distribution Line Project Costs -- \$4,595 rate base reduction;
- Reduction to Transmission Line Costs -- \$1,482 rate base reduction;
- Remove RECs from Rate Base -- \$4.08 million rate base reduction;
- Power Supply RNS Adjustment -- \$398,000 expense reduction.

I plan to have the final testimony filed shortly.

Thank you,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**MEMORANDUM**

To: Commissioner June Tierney  
From: Daniel Burke  
Date: August 6, 2018  
Re: Draft Testimony for GMP Rate Case (PUC Case 18-0974)

Commissioner Tierney:

I have enclosed copies of the Department's draft testimony for the pending GMP rate case. Brian Winn is currently working with our retained consultants to finalize modeling to consolidate our recommendations and determine the net impact of our proposed adjustments on rates. Accordingly, our testimony still has some placeholders for the final adjustments. However, it appears that our recommendations will result in an overall recommendation to reduce GMP's proposed rate increase by about one percentage point (from 5.45% to approximately 4.45%). Brian will update numbers in his testimony ideally by the end of the day today.

There are a few recommendations that I wanted to flag to you. The Department recommends that GMP's Powerwall Program (\$15 million) be removed from rate base until GMP is able to permanently tariff this service. The Department's retained consultants also recommend that approximately \$25 million of GMP's "blanket" spending be removed from rates, which is likely to be strongly opposed by GMP. Ed McNamara and the PERD team have recommended that a portion of GMP RECs be removed from rate base. It will not result in a significant adjustment, but this is a novel area of ratemaking that has arisen as result of various new renewable energy requirements. There are a host of other minor recommendations that come from Ed McNamara and our retained consultants from GDS. We have not recommended an adjustment to GMP's proposed ROE, but our cost-capital consultant proposes a minor adjustment to GMP's cost of debt (5.07% to 5.03%).

With respect to JV Microgrids and innovative services (including Powerwalls), our general position is that rate regulation should not limit innovation, but the Department advocates for a better balance of risk between ratepayers and shareholders as GMP introduces new service offerings. Our consultants have presented detailed testimony that challenges GMP's financial and operational assumptions underlying the Microgrids and Powerwalls that support our recommendation to exclude Powerwalls (for now) and require that GMP provide guarantees for the JV projects.

We plan to present testimony from the following eight witnesses:

- Brian Winn – Introduction and capital spending
- Ed McNamara – Power Supply, RECs, and Innovative Services
- Carol Flint – Customer Service
- Jacob Thomas (GDS) – Cost of Service Modeling
- Terry Myers (GDS) – Tax Issues and REC Accounting
- Christopher Dawson (GDS) – Power Supply and Innovative Services;
- Kevin Mara (GDS) – Transmission and Distribution;
- Richard Baudino (J. Kennedy) – Cost of Capital

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Sunday, August 05, 2018 5:56 PM  
**To:** Burke, Dan  
**Subject:** Re: Privileged and Confidential - GMP Rate Case Testimony Drafts

That's fine. Thanks. Glad you didn't see the email any sooner - it made for a relaxing flight home for me.

Sent from my iPhone

On Aug 5, 2018, at 17:37, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

I just your email now. I will get hard copies to Audrey tomorrow morning.

Get [Outlook for iOS](#)

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**From:** Tierney, June  
**Sent:** Sunday, August 5, 2018 11:29:10 AM  
**To:** Burke, Dan  
**Subject:** Re: Privileged and Confidential - GMP Rate Case Testimony Drafts

Hi Dan -

Could you email me the docs conveniently within the next 2 hours? If not, I'll get the hard copies in the office tomorrow. Thanks.

Sent from my iPhone

On Aug 3, 2018, at 13:27, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

June,

We have been working on finalizing drafts of the GMP rate case testimony for your review. The testimony is largely completed, but we are still working through some modeling/number crunching with our experts.

The Commission issued an order today that sets next Friday as the deadline for filing testimony. Would you like me to send you electronic copies of the testimony later today by email, or would you prefer that I wait to give you hard copies of the testimony on Monday (assuming that you are back at the office next Monday)?

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)



## Porter, Louise

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**From:** Tierney, June  
**Sent:** Monday, July 09, 2018 1:15 PM  
**To:** Fargo, Audrey  
**Subject:** Re: Meeting w/ Commissioner Tierney re GMP Rate Case (Case 18-0974)

I will try to get to their 10:00 am meeting.

Sent from my iPhone

On Jul 9, 2018, at 12:20, Fargo, Audrey <[Audrey.Fargo@vermont.gov](mailto:Audrey.Fargo@vermont.gov)> wrote:

June – Dan has a meeting already scheduled with this group next Tuesday but their meeting is set at 10:00. You have cabinet at 8:30. Do you want to try and attend the 10:00 with them or would you rather I put something in later in the day? (This group has a standing 10:00 on this case on Tuesdays.) Thank you.

**From:** Burke, Dan  
**Sent:** Monday, July 09, 2018 10:20 AM  
**To:** Fargo, Audrey <[Audrey.Fargo@vermont.gov](mailto:Audrey.Fargo@vermont.gov)>  
**Subject:** Meeting w/ Commissioner Tierney re GMP Rate Case (Case 18-0974)

Audrey,

Please let me know if it is possible to schedule a meeting with June to discuss the GMP rate case during the month of July. The PSD staffers that should be included in the meeting are:

- Dan Burke
- Brian Winn
- Jim Porter
- Riley Allen
- Ed McNamara
- Joan White
- Jake Clark
- Dan Potter (if he is not still on leave?)
- Carol Flint.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Friday, June 22, 2018 12:04 PM  
**To:** Grace, Sheila  
**Cc:** Porter, James; Burke, Dan  
**Subject:** Re: JV MicroGrids

I have finished reviewing Bria's testimony and I have some edits that I will leave on your chair. I am done with Schultz, and no edits. Most of Brian's testimony I am fine with, but I want to talk you, Jim, and Dan about why we are going this deep into accounting treatment in a 248. Doesn't that belong in the rate case?

Sent from my iPhone

On Jun 22, 2018, at 10:54, Grace, Sheila <[Sheila.Grace@vermont.gov](mailto:Sheila.Grace@vermont.gov)> wrote:

Thank you June!

On Jun 22, 2018, at 10:36 AM, Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)> wrote:

I am also now ok with Buscher's testimony.

June E. Tierney  
Commissioner  
Vermont Department of Public Service  
112 State Street, 2nd Floor  
Montpelier, Vermont 05620-2701

**Porter, Louise**

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**From:** Tierney, June  
**Sent:** Monday, June 18, 2018 5:03 PM  
**To:** Flint, Carol  
**Subject:** RE: GMP Rate Case Discussion

That's fine, Carol. Sounds like a good use of your time.

-----Original Appointment-----

**From:** Flint, Carol  
**Sent:** Monday, June 18, 2018 12:09 PM  
**To:** Tierney, June  
**Cc:** Burke, Dan  
**Subject:** Declined: GMP Rate Case Discussion  
**When:** Tuesday, June 19, 2018 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Commissioner Tierney's Office

Dear June, unfortunately, I have a conflict at this time and will be unable to attend. Instead, I will be at ANR with Sheila regarding a potential CPG violation. Best, Carol

62

**Drinkwine, Stacey**

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**From:** Tierney, June  
**Sent:** Friday, June 01, 2018 9:08 AM  
**To:** Burke, Dan  
**Cc:** Winn, Brian; Porter, James  
**Subject:** RE: Case 18-0974-TF -- GMP Rates Discovery -- Privileged and Confidential

Thank you for teeing this up so that it lent itself to a prompt response!

---

**From:** Burke, Dan  
**Sent:** Friday, June 01, 2018 9:02 AM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Winn, Brian <Brian.Winn@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Subject:** RE: Case 18-0974-TF -- GMP Rates Discovery -- Privileged and Confidential

Thank you for the prompt response.

-Dan

---

**From:** Tierney, June  
**Sent:** Friday, June 01, 2018 9:01 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>  
**Cc:** Winn, Brian <Brian.Winn@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Subject:** RE: Case 18-0974-TF -- GMP Rates Discovery -- Privileged and Confidential

I am fine with these questions – a legitimate area of inquiry.

---

**From:** Burke, Dan  
**Sent:** Friday, June 01, 2018 8:59 AM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Winn, Brian <Brian.Winn@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Subject:** Case 18-0974-TF -- GMP Rates Discovery -- Privileged and Confidential

June,

I am compiling our discovery requests for the GMP rate case, which will go out by the end of the day today. Brian has developed a series baseline financial interrogatories that he has been asking all utilities in rate cases (including GMP and VGS), some of which request information on executive compensation. The language from the interrogatories is below, but please let me know if you believe any of the questions should be withheld from this round of discovery (we will have another round later this month).

- Please provide details on GMP’s executive short-term incentive compensation programs for each of the years 2016, 2017 and 2018 including:
  - All plan documents;
  - The participants;
  - Performance metrics, targets, and bands;
  - Payout pool and payout formulas;
  - Actual payout calculations;

- Please provide the individual performance goals for each participant in the short-term incentive program for 2016, 2017 and 2018.
- Please provide details on GMP's executive long-term incentive compensation programs beginning from 2017 through each year that plans and/or plan targets have been established (minimum through 2021) including:
  - All plan documents;
  - The participants;
  - Performance metrics, targets, and bands;
  - Payout pool and payout formulas;
  - Actuals payout calculations
- Please provide the payouts for the short-term and long-term incentive programs for 2016 and 2017 by individual. That is, please identify the "Senior Management" individuals and the proposed award for each individual. Please also list the long-term incentive payout by individual as well. Please provide the details on how each component of the payout was calculated.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

6

**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Thursday, May 10, 2018 1:52 PM  
**To:** Tierney, June; Porter, James; McNamara, Ed; Winn, Brian; Flint, Carol; Allen, Riley; Clark, Jake; White, Joanna; Potter, Dan  
**Subject:** 18-0974 - GMP Rates - PUC Order Opening Investigation  
**Attachments:** 18-0974-TF - 2018.05.10 - Order Opening Investigation & Notice of Prehearing Conference.pdf

All,

The Commission issued an order this afternoon opening an investigation into the GMP rate case. I've attached a copy of the order. The Commission also scheduled a prehearing conference for May 24 at 1:30.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
dan.burke@vermont.gov (email)

**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Monday, May 07, 2018 8:59 AM  
**To:** Tierney, June; Porter, James; Winn, Brian; McNamara, Ed; White, Joanna; Allen, Riley; Flint, Carol; Potter, Dan  
**Subject:** 18-0974 - GMP Rate Case - GlobalFoundries Motion to Intervene  
**Attachments:** 18-0974 - 2018.05.04 - GF Motion to Intervene.pdf

All,

GlobalFoundries filed a motion to intervene in the GMP rate case on Friday. I've attached a copy of the motion. Responses to the motion are due by May 18.

Let me know if you have any comments or concerns.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
dan.burke@vermont.gov (email)

**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Tuesday, May 01, 2018 9:15 AM  
**To:** Tierney, June; Porter, James; Winn, Brian; McNamara, Ed; Allen, Riley; Flint, Carol  
**Subject:** 18-0974 - GMP Rates - PSD Recommendation Letter  
**Attachments:** 18-0974-TF - 2018.05.01 - PSD Recommendation Letter.docx

All,

I've attached a first draft of a letter from the Department to the Commission requesting an investigation into GMP's proposed rate increase. I tried to be mindful of the guidance that I've already received for the case and have kept the tone and substance very general. Please let me know if anyone has any concerns, questions, or other feedback.

I will get the letter filed with the Commission as soon as everyone is satisfied with it to allow for the Commission to schedule a prehearing conference as soon as possible.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
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(802) 828-4019 (office)  
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[tdd] 800-734-8390

**\*\*\* PRIVILEGED AND CONFIDENTIAL DRAFT\*\*\***

May 1, 2018

Ms. Judith Whitney, Clerk  
Vermont Public Utility Commission  
112 State Street, Floor 4  
Montpelier, Vermont 05620

Re: Case No. 18-0974-TF – Tariff Filing of Green Mountain Power  
Department of Public Service Recommendation for Investigation

Dear Ms. Whitney:

On April 13, 2018, Green Mountain Power (“GMP”) filed a cost-of-service and revised tariff sheets with the Public Utility Commission (the “Commission”), which include a 5.45% base rate increase to take effect on January 1, 2019. GMP intends to wholly offset the rate increase with bill credits that will be issued to customers through September 30, 2019. The Department of Public Service (the “Department”) has conducted a preliminary investigation of GMP’s proposed tariff recommendations and, pursuant to 30 V.S.A. § 225(b), recommends that the Commission open an investigation into the justness and reasonableness of GMP’s proposed rate increase.

While GMP intends to offset the proposed rate increase with bill credits that reflect savings from recent revisions to federal income tax law, the Department remains concerned about the overall trajectory of GMP’s rates. The Department appreciates GMP’s willingness to aggressively return tax savings directly back to consumers to mitigate the impact of the rate increase. However, those bill credits represent a temporary nine month solution, and the rate increase will ultimately be borne by GMP’s customers in its entirety. Accordingly, it is necessary for the Department and the Commission to comprehensively investigate GMP’s proposed 5.45% rate increase to ensure that Vermont businesses and households are subject to electric rates that will allow for GMP to provide safe and reliable service at no more cost than is necessary.

To be clear, the Department recognizes that the electric industry is proceeding through a period of rapid change and that GMP is exposed to many operational and financial challenges that are beyond its direct control. However, it is imperative to conduct a thorough, in-depth review of those costs that are within GMP’s control to ensure that GMP’s rates are just and reasonable, reflect least-cost planning principles, and strike the appropriate balance of providing, safe, clean, and reliable electricity with affordable rates for Vermont residents and businesses.

Therefore, the Department recommends that the Commission issue an order that: (1) opens an investigation into GMP's tariff filing; (2) suspends GMP's proposed rate increase; and (3) sets a date for a prehearing conference.

Sincerely,

/s/ Daniel C. Burke

Daniel C. Burke  
Special Counsel

cc:

64

**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Tuesday, April 24, 2018 9:56 AM  
**To:** Tierney, June  
**Subject:** RE: Privileged and Confidential - GMP rate Case Expert Memo

Very briefly. I've asked him to try coordinate a brief meeting with the three of us. I want to make sure I've been able to meet with you to discuss high level strategy before I begin to give our team and witnesses direction and instructions.

Thanks,  
Dan

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**From:** Tierney, June  
**Sent:** Tuesday, April 24, 2018 9:16 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>  
**Subject:** Re: Privileged and Confidential - GMP rate Case Expert Memo

Thanks, Dan. I told Audrey I was fine with it. Has Jim spoken with you about developments on the case?

Sent from my iPhone

On Apr 24, 2018, at 09:08, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

June,

I just spoke with Audrey about the memorandum that I left for you yesterday regarding the retention of expert witnesses for the GMP rate case. The purpose of the memorandum was to provide you with recommendations on expert retention for the rate case. I wanted to have confirmation from you that you do not have any concerns with the recommended experts (GDS Associates and Rick Baudino) before we notify bidders and begin the contracting process with our business office. Please let me know if you have any concerns with either GDS or Mr. Baudino. If not, I will work with our business office to get the contract process started and get our experts started as soon as possible.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**Drinkwine, Stacey**

---

**From:** Tierney, June  
**Sent:** Wednesday, April 18, 2018 8:55 AM  
**To:** Burke, Dan  
**Cc:** Winn, Brian; Porter, James; Allen, Riley; McNamara, Ed; Flint, Carol  
**Subject:** Re: GMP 2109 Rate Case Preliminary Summary

Thanks, Dan.

Sent from my iPhone

On Apr 18, 2018, at 08:35, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

June,

Like in last year's rate case, Mary Powell drafted an executive summary that was filed together with GMP's rate filing. I have attached a copy of that summary in case you have not seen it yet.

Thanks,  
Dan

---

**From:** Tierney, June  
**Sent:** Monday, April 16, 2018 5:18 PM  
**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Cc:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>  
**Subject:** RE: GMP 2109 Rate Case Preliminary Summary

Thanks, Brian. You quick turnaround is much appreciated. Nice work!

---

**From:** Winn, Brian  
**Sent:** Monday, April 16, 2018 3:42 PM  
**To:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Cc:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>  
**Subject:** GMP 2109 Rate Case Preliminary Summary

June,

Attached is the one-page summary of the rate case we discussed last week. As I get time to review the files I will add detail as needed. We have not received the native versions of the schedules so there could be changes based on whether we find anything buried there.

Thanks,

Brian

<Executive Summary.pdf>

## Porter, Louise

---

**From:** Winn, Brian  
**Sent:** Monday, April 16, 2018 3:42 PM  
**To:** Tierney, June  
**Cc:** Porter, James; Burke, Dan; Allen, Riley; McNamara, Ed; Flint, Carol  
**Subject:** GMP 2109 Rate Case Preliminary Summary  
**Attachments:** GMP 2109 Rate Case Preliminary Summary.docx

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

June,

Attached is the one-page summary of the rate case we discussed last week. As I get time to review the files I will add detail as needed. We have not received the native versions of the schedules so there could be changes based on whether we find anything buried there.

Thanks,

Brian

## Drinkwine, Stacey

---

**Subject:** Discussion in Advance of GMP's Rate Filing  
**Location:** Commissioner Tierney's Office - See below for Skype Meeting Information

**Start:** Thu 4/12/2018 1:00 PM  
**End:** Thu 4/12/2018 2:30 PM  
**Show Time As:** Tentative

**Recurrence:** (none)

**Meeting Status:** Not yet responded

**Organizer:** Tierney, June  
**Required Attendees:** Burke, Dan; Brian Winn (Brian.Winn@vermont.gov); Porter, James; Allen, Riley; McNamara, Ed; White, Joanna; Potter, Dan; Hoffman, Steph; Flint, Carol  
**Optional Attendees:** Fargo, Audrey

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[Find a local number](#)

Conference ID: 41505413

[Forgot your dial-in PIN?](#) | [Help](#)

---

**Drinkwine, Stacey**

---

**From:** Tierney, June  
**Sent:** Friday, March 30, 2018 4:49 PM  
**To:** Burke, Dan  
**Subject:** RE: Privileged and Confidential - Memo on GMP Rate Case

Thanks, Dan. Thinking of you this weekend.

---

**From:** Burke, Dan  
**Sent:** Friday, March 30, 2018 4:41 PM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>  
**Subject:** RE: Privileged and Confidential - Memo on GMP Rate Case

June,

I've attached a slightly revised version of the memo that incorporates feedback from Ed and Riley.

Thanks  
Dan

---

**From:** Tierney, June  
**Sent:** Friday, March 30, 2018 11:09 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>  
**Subject:** RE: Privileged and Confidential - Memo on GMP Rate Case

Thanks, Dan. Please keep bugging Ed and Riley for input.

---

**From:** Burke, Dan  
**Sent:** Friday, March 30, 2018 10:03 AM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>  
**Subject:** Privileged and Confidential - Memo on GMP Rate Case

June,

As you requested, I have prepared a brief memorandum on the upcoming GMP rate case, which is attached. The memorandum is intended to provide a high level summary of the information that we already have on GMP's proposed rate adjustment. I shared a draft with Brian, Ed, Riley, and Jim this morning. I've already received feedback from Brian, which I've incorporated. I have not heard from Ed, Jim, or Riley, but I wanted to make sure you have an opportunity to review this draft before you complete your report today and/or I become unavailable.

Please let me know if there is any other information that should be included in this summary, or whether you have other feedback or concerns.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
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(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

69

**Drinkwine, Stacey**

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**From:** Burke, Dan  
**Sent:** Friday, March 30, 2018 4:41 PM  
**To:** Tierney, June  
**Cc:** Porter, James; Winn, Brian  
**Subject:** RE: Privileged and Confidential - Memo on GMP Rate Case  
**Attachments:** 2018.03.30 - Memo to Commissioner Tierney re GMP 2019 Rate Case - Privileged (rev.1).docx

June,

I've attached a slightly revised version of the memo that incorporates feedback from Ed and Riley.

Thanks  
Dan

---

**From:** Tierney, June  
**Sent:** Friday, March 30, 2018 11:09 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>  
**Subject:** RE: Privileged and Confidential - Memo on GMP Rate Case

Thanks, Dan. Please keep bugging Ed and Riley for input.

---

**From:** Burke, Dan  
**Sent:** Friday, March 30, 2018 10:03 AM  
**To:** Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>  
**Subject:** Privileged and Confidential - Memo on GMP Rate Case

June,

As you requested, I have prepared a brief memorandum on the upcoming GMP rate case, which is attached. The memorandum is intended to provide a high level summary of the information that we already have on GMP's proposed rate adjustment. I shared a draft with Brian, Ed, Riley, and Jim this morning. I've already received feedback from Brian, which I've incorporated. I have not heard from Ed, Jim, or Riley, but I wanted to make sure you have an opportunity to review this draft before you complete your report today and/or I become unavailable.

Please let me know if there is any other information that should be included in this summary, or whether you have other feedback or concerns.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601

(802) 828-4019 (office)

(802) 828-2342 (fax)

[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

**MEMORANDUM**

To: Commissioner June Tierney  
From: Daniel Burke  
Date: March 30, 2018  
Re: Green Mountain Power (“GMP”) 2019 Rate Case

The memorandum is intended to provide a general overview of the information that GMP has provided to Department staff regarding GMP’s upcoming tariff and rate filing for 2019 rates.

GMP plans to file for a 6% rate increase on April 13, 2018. However, GMP also intends to return approximately \$26.3 million of savings from its reduced federal tax obligations to customers in the form of a line-item bill credit. GMP believes that this tax savings credit (which represents a one-time up-front return of a portion of GMP’s accumulated deferred income tax (“ADIT”) obligations) will almost completely offset the actual rate increase. Accordingly, GMP has represented that customers will see little, if any, direct impact from the revised rate on monthly bills. It is also important to note, however, that GMP intends to revert from calendar year rates to fiscal year rates. This change means that the revised rate and tax savings credit will take effect on January 1, 2019 and be in effect for only a nine month period through September 31, 2019.

GMP has represented that various factors that are generally beyond its control are placing substantial upward pressure on rates, including: net-metering, regional transmission and capacity costs, and reductions for the cost of renewable energy credits (“RECs”). The new tax law, conversely, has put significant downward pressure on rates that partially offset these costs.

GMP’s cost-of-capital will also be modified slightly as a result of this proceeding. GMP has not informed the Department of final number for its proposed rate of return on equity (“ROE”), though it has indicated that it may use the 9.3% figure that was not approved by the Commission in last year’s rate case, though GMP believes this figure to be artificially low in light of the material increase in the cost of capital over the last six months as is revealed through the increase in 10-year treasury bond rates. The up-front return of ADIT to customers will affect GMP’s balance sheet (it modifies GMP’s assets and liabilities) and result in a slight adjustment to GMP’s debt/equity ratio, which in turn will affect GMP’s overall cost-of-capital. GMP represented to the Department that the debt/equity ratio will be likely be 50.1/49.9 after the ADIT return. For context, last year’s rate case resulted in a capital structure of 48.6% equity and 51.4% debt. This change will put slight upward pressure on GMP’s overall cost-of-capital and increases its earning potential, but the Department intends to investigate whether there are alternate means for returning ADIT that better benefit ratepayers.

GMP’s rates will also include three microgrids, which come with a one-time capital contribution of approximately \$12 million. GMP intends to use a non-traditional accounting methodology that places that \$12 million into the rate year to reduce GMP’s overall cost-of-service for just the rate year. The Department may recommend that the microgrid projects be removed from rates or that the accounting treatment be modified to spread the \$12 million over the life of the microgrids. Those recommendations would result in an a roughly 2% increase to rates.

The Department is also currently evaluating RFP responses from potential expert witnesses on the following issues: (1) cost-of-capital; (2) utility taxation; (3) regulatory accounting; (4) capital spending; (5) O&M spending; (6) power supply; and (7) multi-year plans.

**Porter, Louise**

---

**From:** Burke, Dan  
**Sent:** Friday, March 30, 2018 10:03 AM  
**To:** Tierney, June  
**Cc:** Porter, James; Winn, Brian  
**Subject:** Privileged and Confidential - Memo on GMP Rate Case  
**Attachments:** 2018.03.30 - Memo to Commissioner Tierney re GMP 2019 Rate Case - Privileged.docx

June,

As you requested, I have prepared a brief memorandum on the upcoming GMP rate case, which is attached. The memorandum is intended to provide a high level summary of the information that we already have on GMP's proposed rate adjustment. I shared a draft with Brian, Ed, Riley, and Jim this morning. I've already received feedback from Brian, which I've incorporated. I have not heard from Ed, Jim, or Riley, but I wanted to make sure you have an opportunity to review this draft before you complete your report today and/or I become unavailable.

Please let me know if there is any other information that should be included in this summary, or whether you have other feedback or concerns.

Thanks,  
Dan

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
dan.burke@vermont.gov (email)

**MEMORANDUM**

To: Commissioner June Tierney  
From: Daniel Burke  
Date: March 30, 2018  
Re: Green Mountain Power (“GMP”) 2019 Rate Case

The memorandum is intended to provide a general overview of the information that GMP has provided to Department staff regarding GMP’s upcoming tariff and rate filing for 2019 rates.

GMP plans to file for a 6% rate increase on April 13, 2018. However, GMP also intends to return approximately \$26.3 of savings from its reduced federal tax obligations to customers in the form of a line-item bill credit. GMP believes that this tax savings credit (which represents a one-time up-front return of a portion of GMP’s accumulated deferred income tax (“ADIT”) obligations) will almost completely offset the actual rate increase. Accordingly, GMP has represented that customers will see little, if any, direct impact from the revised rate on monthly bills. It is also important to note, however, that GMP intends to revert from calendar year rates to fiscal year rates. This change means that the revised rate and tax savings credit will take effect on January 1, 2019 and be in effect for only a nine month period through September 31, 2019.

GMP has represented that various factors that are generally beyond its control are placing substantial upward pressure on rates, including: net-metering, regional transmission and capacity costs, and reductions for the cost of renewable energy credits (“RECs”). The new tax law, conversely, has put significant downward pressure on rates that partially offset these costs.

GMP’s cost-of-capital will also be modified slightly as a result of this proceeding. GMP has not informed the Department of final number for its proposed rate of return on equity (“ROE”), though it has indicated that it may use the 9.3% figure that was not approved by the Commission in last year’s rate case, though GMP believes this figure to be artificially low. The up-front return of ADIT to customers will affect GMP’s balance sheet (it modifies GMP’s assets and liabilities) and result in a slight adjustment to GMP’s debt/equity ratio, which in turn will affect GMP’s overall cost-of-capital. GMP represented to the Department that the debt/equity ratio will be likely be 50.1/49.9 after the ADIT return. For context, last year’s rate case resulted in a capital structure of 48.6% equity and 51.4% debt. This change will put slight upward pressure on GMP’s overall cost-of-capital and increases its earning potential, but the Department intends to investigate whether there are alternate means for returning ADIT that better benefit ratepayers.

GMP’s rates will also include three micro-grid projects, which include a one-time capital contribution of approximately \$12 million. GMP’s intends to use a non-traditional accounting treatment that places all of that revenue into the rate year to reduce its overall revenue need. The Department is reviewing these projects and may recommend that they be removed from rates because GMP has not yet demonstrated that the projects are necessary. The Department may also challenge GMP’s proposed accounting treatment. Either recommendation would result in an approximately 2% increase to rates.

The Department intends to retain outside experts to assist its review of GMP’s filing and provide expert witness testimony to the Commission. The Department is currently evaluating RFP responses from potential consultants on the following issues: (1) cost-of-capital; (2) utility taxation; (3) regulatory accounting; (4) capital spending; (5) O&M spending; (6) power supply; and (7) multi-year plans.

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Thursday, March 01, 2018 12:12 PM  
**To:** Burke, Dan  
**Subject:** Re: GMP Rate Case and Multi-Year Plan Meetings

You've caught my drift perfectly.

Sent from my iPhone

On Mar 1, 2018, at 11:21, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

You are not intended to be participating in the meetings. I copied you on the email to keep you updated and make sure that you are aware that we are working on coordinating meetings between PSD and GMP staff. I will be sure to let you know if I hear that Mary Powell intends to come to any of these meetings.

Thanks,  
Dan

**From:** Tierney, June  
**Sent:** Thursday, March 01, 2018 11:18 AM  
**To:** Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>  
**Subject:** Re: GMP Rate Case and Multi-Year Plan Meetings

I assume it is understood that I am not participating in these weeklies, or does Mary plan to attend?

Sent from my iPhone

On Mar 1, 2018, at 10:54, Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)> wrote:

Jim and I had a conversation with Carolyn Anderson and Liz Miller about the upcoming GMP rate and multi-year plan filings. Most of the conversation related to process and procedure, but they suggested that we set up weekly meetings for Department staff to meet with GMP staff in advance of both filings to discuss the substance of the filings. Jim and I agreed that weekly meetings with our teams will likely be helpful. I've taken a look at everyone's schedules, and while I cannot find any good times, it looks like Thursday afternoons seem to be the most open for the people I've included in this email. Please let me know if Thursday afternoon meetings are a problem for any of you and I can find a separate time. I've also suggested to GMP that we can use the video conferencing capabilities in GIGA if it helps bring appropriate people to the meetings. If Thursdays generally work for our team, I will set up a recurring meeting for each Thursday through mid-April.

Otherwise, GMP was clear that losing Charlotte has put significant pressure on their team. However, they still plan to file a full rate case and multi-year plan by April 13 and hope to have orders from the PUC on both fronts by the end of the calendar year. Jim and I were clear that we have concerns about completing a review of a multi-year rate plan in that timeframe, especially if they are also going to file a rate design petition by the end of the month (which is likely to happen).

Please let me know if you have any questions.

Daniel C. Burke  
Special Counsel  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
(802) 828-4019 (office)  
(802) 828-2342 (fax)  
[dan.burke@vermont.gov](mailto:dan.burke@vermont.gov) (email)

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Friday, February 16, 2018 9:08 AM  
**To:** Winn, Brian  
**Subject:** RE: Please read: Agenda for Director's Meeting

Thanks.

**From:** Winn, Brian  
**Sent:** Friday, February 16, 2018 9:00 AM  
**To:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

Will do.

**From:** Tierney, June  
**Sent:** Friday, February 16, 2018 8:59 AM  
**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

Right. So, when you have a chance, maybe add this to the Director's meeting agenda?

**From:** Winn, Brian  
**Sent:** Friday, February 16, 2018 8:58 AM  
**To:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

Definitely diversifying consultant pool.

**From:** Tierney, June  
**Sent:** Friday, February 16, 2018 8:57 AM  
**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

Thanks. I know you are busy, and here is my proof. But what I meant was, what else is going on in your shop that you could productively be raising with other directors. For instance, strategies to diversify our consultant pool? Could Ed be spreading the word through NARUC contacts? Or, with Ann having declined to join us, could Ed be spreading word of the vacancy through his contacts at NARUC?

**From:** Winn, Brian  
**Sent:** Friday, February 16, 2018 8:53 AM  
**To:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

June,

Quite a few things:

- 1) Pre-work on discovery for VGS and GMP cases.

- 2) Week response to our RFP for consultants on the VGS case. Only two and no takers on the tax portion. I am strongly on board with diversifying our consultant pool but we will need to be more proactive to make that happen. The internal GMP team is meeting today and I will be urging them to start the RFP process now.
- 3) Will have meetings with GMP next week on their capital templates for the next rate case and on the accounting for the Milton Microgrid.
- 4) Starting to interview for Georges replacement – first interview is this morning.
- 5) Will be reviewing VGS's rate case filing.
- 6) Waiting for your comments on Sean' review.
- 7) Heard from WEC about their plans for an upcoming rate case (will send separate note to the team later today)
- 8) Participating in discussion on rate design with Riley.
- 9) Need to follow up with you on next steps for the ITC idea.

That's a quick rundown. Can explain more after the interview from 9:00 to 10:00.

Brian

**From:** Tierney, June  
**Sent:** Friday, February 16, 2018 8:36 AM  
**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

Thanks Brian. That makes sense to me. That said, what else is going on in your world?

**From:** Winn, Brian  
**Sent:** Friday, February 16, 2018 8:35 AM  
**To:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; Drinkwine, Stacey <[Stacey.Drinkwine@vermont.gov](mailto:Stacey.Drinkwine@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>; Jordan, Bill <[Bill.Jordan@vermont.gov](mailto:Bill.Jordan@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Purvis, Clay <[Clay.Purvis@vermont.gov](mailto:Clay.Purvis@vermont.gov)>  
**Subject:** RE: Please read: Agenda for Director's Meeting

June,

I was going to bring up the following subject in the coordination section:

Milton Microgrid and the implications for the upcoming GMP rate case.

Brian

**From:** Tierney, June  
**Sent:** Friday, February 16, 2018 7:49 AM  
**To:** Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; Drinkwine, Stacey <[Stacey.Drinkwine@vermont.gov](mailto:Stacey.Drinkwine@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>; Jordan, Bill <[Bill.Jordan@vermont.gov](mailto:Bill.Jordan@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Purvis, Clay <[Clay.Purvis@vermont.gov](mailto:Clay.Purvis@vermont.gov)>; Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Subject:** Please read: Agenda for Director's Meeting

Hi Gang –

It's Friday, and, speaking for myself, my mind is on the long weekend at this moment, and not on our Director's meeting. Still, I am doing my due diligence, which is to say, I looked at this agenda, and I see there are no items in the

Director's portion. By this coming Tuesday, it will have been two weeks since our last meeting. Truly, have you nothing to report or discuss in our group? I don't want to make work for you. That said, we should not lose the opportunity to make productive use of this management team time. So, please give some thought to identifying items to add to this agenda.

Food for thought: the 2017 employee survey results are published now on the DHR website. Please have a look at them. I would welcome discussion about how we have fared, as well as your insights into the takeaways and possible actions we could take this year in response.

I hope you all have plans to enjoy the holiday weekend. JET

**From:** Fargo, Audrey

**Sent:** Thursday, February 15, 2018 3:39 PM

**To:** Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; Drinkwine, Stacey <[Stacey.Drinkwine@vermont.gov](mailto:Stacey.Drinkwine@vermont.gov)>; Flint, Carol <[Carol.Flint@vermont.gov](mailto:Carol.Flint@vermont.gov)>; Jordan, Bill <[Bill.Jordan@vermont.gov](mailto:Bill.Jordan@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Purvis, Clay <[Clay.Purvis@vermont.gov](mailto:Clay.Purvis@vermont.gov)>; Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>

**Cc:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>

**Subject:** Agenda for Director's Meeting

Good-afternoon:

Attached is the draft agenda for the next meeting of the Directors on Tuesday, February 20<sup>th</sup>. *\*Monday is a President's Day.*

Please let me know if you have any changes or additions.

Thank you.

*Audrey*

Audrey Fargo  
Executive Assistant to Commissioner June Tierney  
Vermont Department of Public Service  
112 State Street, 2<sup>nd</sup> Floor  
Montpelier, VT 05620

## Porter, Louise

---

**From:** Tierney, June  
**Sent:** Friday, February 02, 2018 9:57 AM  
**To:** Winn, Brian  
**Subject:** RE: Weekly report follow-up

Thanks. That's what I wanted to know – that we are engaging with the company on the issue now, and not saving it up for when they file. Any chance of working it out with Eddie Ryan without need of Bill Schulz?

**From:** Winn, Brian  
**Sent:** Friday, February 02, 2018 9:55 AM  
**To:** Burke, Dan <Dan.Burke@vermont.gov>; Tierney, June <June.Tierney@vermont.gov>  
**Cc:** Porter, James <James.Porter@vermont.gov>; Allen, Riley <Riley.Allen@vermont.gov>; McNamara, Ed <Ed.McNamara@vermont.gov>  
**Subject:** RE: Weekly report follow-up

June,

We had a rather large meeting with the company on the Micro Grid project on Tuesday afternoon. I raised this issue with them and they agreed that I should work with Eddie Ryan (their Controller) to try to resolve the matter.

It materially (negatively) impacts the cost benefit analysis.

Brian

**From:** Burke, Dan  
**Sent:** Friday, February 02, 2018 9:27 AM  
**To:** Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>; Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Cc:** Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>  
**Subject:** RE: Weekly report follow-up

June,

As a clarification, Brian and I discussed how it would be possible to bring on a consultant for a limited engagement under the billback authority. Brian was not contemplating eating the cost. I apologize if that point was ambiguous in my prior email.

Dan

**From:** Tierney, June  
**Sent:** Friday, February 02, 2018 9:10 AM  
**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Cc:** Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>  
**Subject:** RE: Weekly report follow-up

Thanks, Brian. My query was more directed at knowing whether this issue is on all of the appropriate radar screens. Before Bill is asked to look into this (which makes some sense to me, but eating the dollars not so much), are

we planning to talk with GMP about why this issue is coming up again, and whether it can be resolved peaceably without need of involving Bill in analysis?

**From:** Winn, Brian

**Sent:** Friday, February 02, 2018 9:04 AM

**To:** Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>; Tierney, June <[June.Tierney@vermont.gov](mailto:June.Tierney@vermont.gov)>

**Cc:** Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>

**Subject:** Re: Weekly report follow-up

Dan has the summary correct. If you are OK with the approach I can send the Micro Grid spreadsheet to Bill and he will give me a former estimate.

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**From:** Burke, Dan

**Sent:** Friday, February 2, 2018 8:46:09 AM

**To:** Tierney, June; Winn, Brian

**Cc:** Allen, Riley; McNamara, Ed; Porter, James

**Subject:** RE: Weekly report follow-up

June,

Note that I am not the attorney on the Microgrid case (Traci and Sheila are assigned). However, Brian spoke with me about the possibility of limited use of a consultant earlier this week. Brian believes (and I agree) that it would be ideal to try to resolve the JV accounting issue in advance of GMP's upcoming rate case. Bill Schultz provided testimony on the accounting issue during the rate case, and Brian was hoping that Bill could provide the Department with limited support in the 248 microgrid case to verify that we are addressing the accounting issue appropriately. Brian's intent is not to use Bill as a witness, but have him assist in the preparation of our own testimony and verify that the Department's witnesses are addressing the accounting issue correctly. We do not have any current contracts with Bill that would allow for the Department to use billback authority for him to complete limited work on this case. However, I told Brian that it might be possible to use a small sole-sourced contract if the amount of work is truly de minimis, but I am not sure if sole-sourced contracts are completely prohibited under the current state contracting processes. Brian can correct me if I am wrong, but he is expecting that consultant work on this issue would be very limited, to the extent that it would be less than one days' worth of work.

Thanks,

Dan

**From:** Tierney, June

**Sent:** Friday, February 02, 2018 8:33 AM

**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>

**Cc:** Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>

**Subject:** RE: Weekly report follow-up

Hi Brian –

Please see below in bold from the weekly report. **What is the plan for handling this issue?** Hope you (and everyone else on this email) have a great weekend. JET

GMP MicroGrid-Milton: 17-5003-PET Petition of GMP MicroGrid-Milton LLC for a Certificate of Public Good, pursuant to 30 V.S.A. § 248, authorizing the installation and operation of up to a 4.99 MW solar electric generation facility and 2 MW battery storage facility to be located off of Mears Road in Milton, VT: S.248 proceeding; discovery questions were compiled to assess the financials portion of the project to determine if it will contribute to the general good of the state. These were compared and discussed with PERD, finalized, and sent to the PA for submission to GMP. **Additionally, this project resurfaces the JV accounting issue that was not resolved in the last rate case. Will need to bring on an accounting expert to resolve this issue with GMP.** ( Gina Stair)

June E. Tierney  
Commissioner  
Vermont Department of Public Service  
112 State Street, 2nd Floor  
Montpelier, Vermont 05620-2701

## Porter, Louise

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**From:** Tierney, June  
**Sent:** Friday, February 02, 2018 8:49 AM  
**To:** Burke, Dan  
**Subject:** RE: Weekly report follow-up

Thanks, Dan. I realize you are not on this Microgrid case. I included you for awareness purposes because you are involved in GMP rate setting, and this issue has the potential to come up in the next rate case.

**From:** Burke, Dan  
**Sent:** Friday, February 02, 2018 8:46 AM  
**To:** Tierney, June <June.Tierney@vermont.gov>; Winn, Brian <Brian.Winn@vermont.gov>  
**Cc:** Allen, Riley <Riley.Allen@vermont.gov>; McNamara, Ed <Ed.McNamara@vermont.gov>; Porter, James <James.Porter@vermont.gov>  
**Subject:** RE: Weekly report follow-up

June,

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Thanks,  
Dan

**From:** Tierney, June  
**Sent:** Friday, February 02, 2018 8:33 AM  
**To:** Winn, Brian <[Brian.Winn@vermont.gov](mailto:Brian.Winn@vermont.gov)>  
**Cc:** Allen, Riley <[Riley.Allen@vermont.gov](mailto:Riley.Allen@vermont.gov)>; McNamara, Ed <[Ed.McNamara@vermont.gov](mailto:Ed.McNamara@vermont.gov)>; Porter, James <[James.Porter@vermont.gov](mailto:James.Porter@vermont.gov)>; Burke, Dan <[Dan.Burke@vermont.gov](mailto:Dan.Burke@vermont.gov)>  
**Subject:** RE: Weekly report follow-up

Hi Brian –

Please see below in **bold** from the weekly report. **What is the plan for handling this issue?** Hope you (and everyone else on this email) have a great weekend. JET

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facility and 2 MW battery storage facility to be located off of Mears Road in Milton, VT: S.248 proceeding; discovery questions were compiled to assess the financials portion of the project to determine if it will contribute to the general good of the state. These were compared and discussed with PERD, finalized, and sent to the PA for submission to GMP. **Additionally, this project resurfaces the JV accounting issue that was not resolved in the last rate case. Will need to bring on an accounting expert to resolve this issue with GMP.** ( Gina Stair)

June E. Tierney  
Commissioner  
Vermont Department of Public Service  
112 State Street, 2nd Floor  
Montpelier, Vermont 05620-2701