

From: Springer, Darren [Darren.Springer@vermont.gov]

Sent: Friday, October 28, 2016 8:37 PM

To: GPS

CC: London, Sarah; Allen, Susan; Martin, Trey; Coriell, Scott; Pepper, James; Miller, Lawrence; Gray, Laura

Subject: Public Service.pdf Exec Priv

Attachments: Public Service.pdf; ATT00001.txt

Public Service report attached.

Gov - See Chris points on Entergy upfront. I promised I'd flag them prior to our meeting Tues. Some of his points make sense and some point in my mind to risks with proceeding. We'll cover all on Tuesday.

Also in better news Public Service has agreed to a schedule with GMP to try to settle their heat pump docket before January. Fuel Dealers trying to delay it. We'll see how Board responds.

Thanks,
Darren



Privileged and Confidential

MEMORANDUM

To: The Honorable Peter Shumlin, Governor
Sarah London, General Counsel

From: Christopher Recchia, Commissioner

Date: October 28, 2016

Subject: Weekly Report

Governor Level Issues:

Status of Priorities and Cases of Interest:

VY - I don't think I need to reiterate my disappointment that the Entergy negotiations closed yesterday without reaching an agreement. As you know, I was very supportive of moving forward and felt we had adequate protections in place. I'm not sure I've ever had the opportunity to clearly articulate them to you, so let me do that here briefly:

1. Entergy has committed to have fixed price contracts for all work to be done to fully D&D the facility and do site restoration;
2. Each of these contracts will be backed up by a performance bond equal to 80-100% of the work element the contractor is responsible for;
3. These work elements need to identify 100% of the work to be done and fit within the Trust Fund before the NRC would let work start;
4. If the fund was short, it would be trued up with cash at closing between Entergy and Northstar;
5. No withdrawal from the trust fund would occur until a work element was fully completed, regardless of the cost.

6. The first major work element is decommissioning of the reactor – which is a \$150M effort to be performed by Areva, back by a 100% bond, and owned in part by the French Government;
7. After that, the work elements are relatively small and discrete – so performance bond or Support Agreement would be adequate even if several contractors go bankrupt or fail to complete their work (again, they too have performance bonds regardless);
8. If anything is found that is unknown, a work element will be identified, a cost estimated, and that money added to the trust fund if it is short (could be alternative financing);
9. In addition to all this, we would have (as of their last proposal) \$175M parental guarantee that would reach up to the corporate owners of Northstar (according to Entergy), and the \$20M site restoration trust fund
10. Finally, this is all just to agree to the conditional site restoration standards we negotiated. We have full authority and leverage to argue that Northstar is not financially able or is not adequately guaranteeing their assumption of the CPG to oppose that transfer or augment the financing in the Board process. If the CPG fails before the Board, we revert to the baseline standards.

I hope we get another opportunity to revisit this, as this would be a lost opportunity for Vermonters to see this site cleaned up to the best standards ever undertaken in a period as short as 5 years following fuel movement to dry cask. I also should have been able to get beyond this so as to start negotiating a preferred deal with WCS (a Northstar partner) to move the Dry Casks to Texas should they be permitted as an interim storage facility.

GMP Innovative Programs -We supported a schedule today proposed by GMP which completes technical hearings before Thanksgiving and has final briefs due to the Board in early December.

Clean Energy Finance Collaborative

The Department hosted the inaugural meeting of the new Clean Energy Finance Collaborative. It was very well attended with participants including Treasurer Pearce, VEDA, ACCD, GMP, VT Fuel Dealers, REV, BED, VPPSA, VEIC, EAN, VNRC, and VGS. Half of the meeting was used to talk about the collaborative and gauge interest in future discussions, and half was dedicated to a VEIC presentation about the RUS Loan program. After a slow start, lively conversation ensued. A follow-up meeting will likely happen in late January with co-leaders (public and private) hopefully selected by then.

VGS Rate and Alt Reg Filings – Docket Nos. 8710 & 8698

VGS filed rebuttal testimony opposing many of the Department's recommendations. VGS focused on the alt reg, prudence, and known & measurable recommendations. VGS added two additional witnesses – a construction management professional and a former Mass DPU chair. Discovery is complete. DPS is preparing surrebuttal. DPS will present the following witnesses: Schultz will confirm prudence and k&m adjustments, as well as other COS adjustments; Baudino will confirm ROE adjustment; White will confirm PGA-only alt reg plan; and Winn (a new witness on surrebuttal) will support the prudence adjustment and discuss the SERF. As the case has evolved, VGS's proposed decrease has changed to 2.26 percent (which includes

about \$8.2 million in SERF – down from \$13.9 million). The DPS figures are not finalized yet but are coming in around a decrease of 2.5 to 2.8 percent (which includes no withdrawal from SERF). Accordingly, staff's recommendation is likely to be a greater rate decrease than VGS's. This means that less SERF is desirable this year to achieve low and stable rates, as excessive use of the SERF now, while providing some relief to customers immediately, will exacerbate rate shock going forward. Our testimony recommends that SERF on the order of between \$2M and \$5M be used now (depending on what the Board determines to be appropriate disallowances) to get some money back to ratepayers and maintain the bulk of the SERF to smooth rates in upcoming years.

GMP-St. Albans Community Digester-Docket 8673 - 800 kW methane biodigester generation facility to be constructed in St. Albans. After several months of no activity, on September 28, GMP submitted a revised proposal, which Department staff has reviewed. On October 25, the Department submitted to GMP a series of questions regarding the cost of the Project. These questions were sent informally and there is no due date for responses. The schedule remains suspended. The Department has communicated to GMP the contours of a potential settlement, including a price of \$.169/kwh and a guarantee that holds ratepayers harmless if capital or operations costs exceed estimates or if power output does not hit estimates. It is a challenge to structure a solid ratepayer guarantee that needs to live for the 25 year life of the project.

Permanent Wind Noise Rulemaking – No Docket

The Department submitted its proposed rule to the Board, along with responses to questions posed by the Board and supporting reports by its acoustics and health experts. The proposed rule does not contain a specific sound limit, although the Department anticipates proposing one to the Board shortly. The proposal does, however, establish a comprehensive model-based approach to determining sound emissions from wind turbines and model validation protocols including monitoring and data analysis requirements. Roughly a dozen other individuals, towns, and groups submitted comments and/or responses to the Board's questions, though none presented a filing nearly as comprehensive as the Department's. The Board has proposed to hold a workshop to discuss the filings on November 7. The Department will propose that a workshop be delayed and an additional deadline for response filings be added in Mid-November. We are getting support for this from other parties, and will file this on Monday. The Department will bring in its experts to the workshop, regardless of when it takes place, to discuss their respective reports.

Prospective increase in Efficiency Vermont's Energy Efficiency Charge

After conversations with EVT staff regarding their concern with the calculated ~10% increase in the EEC for 2017, the efficiency utility has opted to stay the course rather than make adjustments in their upcoming budget to mitigate the double-digit rate increase.

Swanton Wind – Dockets 8816 & 8571

The Board held a prehearing conference on November 24. The Department had established a framework for a schedule with most agency parties and a number of intervenors that calls for discovery to commence in February 2017. The proposed schedule allows for motion practice (and hopefully issuance of an order) surrounding a renewed motion to dismiss in Docket 8571, concerning Swanton Wind's petition for approval of a rule 4.100 PURPA contract. (Swanton Wind sought a 20 year PPA taking advantage of stale rates in advance of significant review of

the 248 petition.) This approach avoids unnecessary waste of resources in the event that the economics of the project no longer work if the Board grants the motion to dismiss the PPA. The 248 petition's evidence of the project satisfying the "need" criteria rests almost exclusively on the approval of the 20 year PPA under review in Docket 8571. The Board seemed receptive to such a schedule, although Swanton Wind argued that disposition of the PPA question posed in Docket 8571 was irrelevant to review of the § 248 petition, and proposed a schedule that calls for discovery to begin in November. The Board is seeking proposed schedules from the parties by the end of this week. The Department is finalizing a schedule with all parties except for Swanton Wind.

FairPoint Petition to Investigate 5903 Service Metrics - Docket 8701

FairPoint has petitioned the Board to allow it to modify its existing service quality metrics and reporting requirements. FairPoint is requesting that it be permitted to report on service quality only for addresses where its customers do not have access to an alternate landline provider. FairPoint is also requesting that the Board modify the troubles cleared metric so that it is measured at 48 hours instead of 24 hours. The Department submitted its prefiled testimony on October 20. The Department's testimony supports FairPoint's request to modify its service quality reporting requirements, but requested that the Board include additional conditions. First the Department requested that FairPoint be required to provide bill credits at \$5/day for all outages for captive customers that exceed 72 hours. Second, the Department requested that FairPoint be required to comply with a new metric that would measure the percentage of troubles cleared for customers with medical conditions or emergencies within 24 hours. Failure to meet 70% clearance for emergency customers would result in an annual penalty of up to .1% of FairPoint's gross revenues. Third, the Department requested that FairPoint not be allowed to implement the modified metric until it can more accurately identify their captive customers. Finally, the Department recommended that FairPoint not be allowed to fully transition to the new metric until it can achieve compliance with the proposed new metric for four consecutive quarters.

Meetings This Week:

Oct 24 – ISO NE meeting, Extended Cabinet Meeting
Oct 25 – ENVY Conference Call
Oct 26 – Clean Energy Finance Collaborative meeting, Rachel Aslin Goldwasser meeting, ENVY Conference Call
Oct 27 – NDCAP meeting, VELCO Event, Meeting with Governor Shumlin
Oct 28 – VEDA Board meeting, NDCAP Issues Committee Conference Call

Meetings Next Week:

Oct 31 – Darren Springer meeting
Nov 01 –
Nov 02 – Bill Reynolds & Bill Duchac Meeting, VLCT Fall Planning & Zoning Forum presentation on Act 174
Nov 03 – Act 174 Working Group, NECPUC Meeting
Nov 04 – NEPOOL Sectors Meeting

Media:

Public Official Contacts: Senator Bray.

Everything Else:

PERD

Act 174 / Regional and Municipal Planning

- Act 174
 - Received several dozen thoughtful, detailed comments on the draft standards, from regions, municipalities, organizations, and individuals. Worked on incorporating as many as possible, though many of them will need to be addressed in later guidance.
 - Continued revisions to standards, particularly analysis standards and guidance, which is the source of most of the angst for municipalities (and some regions).
 - Finished another draft of guidance document for meeting the criteria of Department's "Analysis and Targets" standards, including section spelling out the minimum Wind and Solar MW that energy plans must assume will be sited in region or town in their analysis (consistent with CEP scenarios in Chapter 11). Some trading between Wind and Solar would be permitted and MW would be apportioned based on the average of population share and share of resource (wind speed/solar exposure). This draft was reviewed internally and it was decided that the MW allocation content is better left out until the constraints are settled because shares of the resource would be calculated after removing the land area that the determination standards say can be excluded from RE siting.
- Worked with RPCs to ensure they have the data they need to fulfill their analysis requirements under our energy planning contracts. They would like to have the option (and tell their municipalities they have the option) to use the EAN Dashboard for their analyses, but VEIC will need to provide guidance on the similarities and differences between LEAP and the Dashboard in order to give us and others comfort with this approach.

Vermont System Planning Committee

- Quarterly Meeting
 - Attended quarterly meeting in Rutland.
 - Committee voted to approve recommendations of the GT Subcommittee which in fact make no recommendation at all since no areas have screened in for geotargeting. GMP has developed a [reliability plan for the Hinesburg](#) area but because it is based on a battery facility (not EE or DG), it is not technically a geotargeted area, per the docket 7873/7874 MOU and screening criteria.

Clean Energy Development Fund

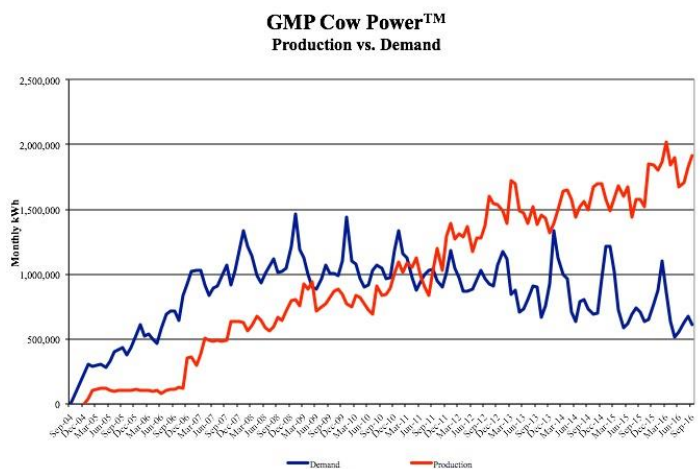
- Received quotes for a proposed 4th Vt. Clean Energy Industry Report, with the highest cost for assistance with data analysis and report writing coming in below \$10,000—well below the amounts required prior to DOE assuming the role in conducting the survey on a national basis. This survey is now in the field, and we assume that the state will be able

to access the data around the beginning of the New Year. CEDF will need to choose which path to proceed and begin on the development of the report this month.

- Finalized program forms with Air Quality Division for the long awaited wood stove change out program. We hope to launch this in November.
- Completed and sent off a draft of a contract to have the Biomass Energy Resource Center create a baseline report on Vermont's use of wood heating
- Completed and sent to VEDA a draft grant agreement for the \$1.2M credit enhancement program for advanced wood heating and roof-top solar.
- Met with Northern Forest Ctr. to plan the roll-out of the NRBC grant to incentivize 5 advanced wood heat projects with non-profits in the Northern border region.

Renewable Energy

- This chart shows kWh production from farm methane facilities steadily increasing (red line) but customer participation in the \$0.04/kWh program steadily decreasing over the last 8 years (blue line). Peaks in winter on blue line are mainly due to Killington ski area's participation in the program.
- Scheduled meeting with PA and with ACCD to discuss Act 56 report on solar screening ordinances and bylaws (and their application in 248 proceedings), which is due in mid-January.



Dockets and 248 Review

- Staff worked through issues with the GMP St. Albans digester. Waiting on more detail from GMP on capital expenditures to begin working through a price point and risk guarantee for ratepayers.
- Began testimony on VGS Alt. Reg. Staff plans to argue for a PGA-only interim plan, rebut claims of VGS testimony, and lay out Department vision for Alt. Reg. 2.0 - a truly multi-year rate plan with some performance aspects.
- Staff attended GMP innovative services tariff workshop. Some interesting tid-bits were that only 11 people with are enrolled in smart rates. The effective "backed out" interest rate as GMP sees it is around 10%. Customers see only the wrapped-in price, not the financing cost.

Other Items

- Attended the Packetized Energy Management workshop at UVM. It's a software and hardware opportunity that optimizes load in real time to deploy when supply is available. It can turn many kinds of storage (including both thermal and electrical) into coordinated grid-enabled storage/controlled load-supply.
- Staff attended meeting about the future of regulation for GMP. It is clear that the utility has not thought about new models beyond earning on ratebase as it becomes an energy

transformation company.

Financing & Economics

Electric

GMP: Tariff Filing #8621 - Modifications to the GMP Electric Assistance Program (EAP) and Approval to expend EAP funds to engage a 3rd party to evaluate efficiency & effectiveness of the EAP application and certification process. On March 31, 2016, GMP filed a Board mandated EAP status report that discussed results of the third program year. Following meetings with stakeholders, GMP proposes a significant expansion of benefits which would delete surplus revenues in the EAP program account. F&E will review the filing including cash flow estimates. A Department recommendation is due on or about November 14, 2016.

Regional

Integrating Markets and Public Policies (IMAPP)

- On October 21, NEPOOL counsel outlined the legal issues associated with state and federal authority over wholesale markets and environmental attributes. The main takeaway is that any new wholesale electricity market that explicitly accounts for state policies has the potential to turn over state jurisdiction on cost allocation and quantity of renewables procured to FERC.
- Conservation Law Foundation continues to push for a carbon pricing program, despite the fact that all of the states have said they do not want to use such a program to pursue renewable procurement goals.
- One merchant generation company made clear that it would fully litigate any action that distorts wholesale capacity prices, and the largest demand response provider in New England stated that it relies on appropriate price signals from the capacity market and the state policies have the potential to disrupt these signals.

Meeting with ISO-NE CEO

- On October 24, DPS and PSB staff met with Gordon van Welie, the CEO of ISO-NE. van Welie raised concerns about reliability for the New England electric system unless more natural gas infrastructure is built. It is becoming clear that states will not be able to have electric ratepayers subsidize pipeline capacity and ISO-NE's likely response will be to use the wholesale markets to increase penalties for non-performance by natural gas-fired units, thereby increasing capacity prices.

-In addition, van Welie, stated that transmission projects designed to promote public policy (either through Order 1000 or through merchant transmission projects) have the potential to significantly impact other resources. The example given was that, if both the TDI and Anbaric transmission lines are built, this could cause curtailment of existing renewable resources located within Vermont.

-With respect to Integrating Markets and Public Policies, van Welie stated that carbon pricing is the most economically efficient mechanism, although he recognized that there is no political support, and that FERC will not implement such a mechanism absent state support, at this time. ISO-NE apparently does not support the idea of a Forward Clean Energy Market as it would essentially turn ISO-NE into the RFP coordinator for the states and would not actually become a

true market. According to van Welie, the two-tier pricing model being proposed by some generators and PJM is the best solution, absent carbon pricing.

St. Lawrence Contract

- There continues to be progress on the contract negotiations between New York Power Authority and the Neighboring States, with the exception of the ownership of renewable energy credits. NYPA is insistent that it is not obligated to provide the RECs at no cost to Neighboring States; unfortunately, Neighboring States have not been able to find any supporting legal precedent that contradicts NYPA's position.
- Remaining issues are agreed to in principle but require finalizing contract language.

TransCanada Hydro Acquisition Report

- On October 25, the Hydro Acquisition Working Group filed its report with the legislature. The report concluded that the process moved too quickly to allow the state to meaningfully participate and recommended that the state work with electric utilities to explore a potential power purchase agreement, with the possibility of including an option to purchase an equity stake in the hydro facilities.

Engineering

Update on VY Groundwater Management Issues

As of 10/20, approximately 365,000 gallons of intrusion water have been shipped offsite. Weekly intrusion water shipments continue. Installation of the first phase of the new Seismic Gap seal (a large, inflatable gasket) between the Reactor and Turbine Buildings was completed on 10/19. Injection of sealant material (an epoxy grout) began on 10/21 and is continuing. Active work on the resealing effort remains on track for completion by the end of October.

Second VY Independent Spent Fuel Storage Installation (ISFSI) Construction Activities

Cable installations and testing for new electrical and data connections between the VY Control Room, the new (yet to be constructed) and existing ISFSI pads, and the new Security Diesel Generator (DG) were completed on 10/20. Construction of the new DG's sound abatement wall is expected to finish later this week. Preparations for full functional testing of the new Security DG are underway; the testing is scheduled to occur later this week. In anticipation of the North Warehouse demolition, break up of some of the concrete paving around the warehouse began on 10/24. Additionally, shipping containers for potentially contaminated debris from the North Warehouse's demolition have begun arriving onsite.

NRC Issues VY 2016 Third Quarter Inspection Report

On 10/24, the NRC formally issued the Third Quarter 2016 (3Q 2016) Site Inspection Report for VY. The 3Q 2016 inspections focused on VY's Spent Fuel Pool Integrity Maintenance, Environmental Monitoring, Radioactive Waste Management and Corrective Action programs. Consistent with the Inspection Exit meeting held several weeks ago, the report identifies no significant findings. Several additional NRC inspections performed during 3Q 2016 (including follow-ups on VY's water incursion management and the Seismic Gap resealing efforts) are not discussed since they will be reviewed further during the Fourth Quarter 2016 inspection period.

Department of Energy (DOE) Issues Revised Shutdown Sites Report

On 10/24, the DOE issued the third revision of its “Preliminary Evaluation of Removing Used Nuclear Fuel from Shutdown Sites” report. The report assesses the spent fuel storage status and transportation infrastructure at and near US commercial nuclear power plant sites with permanently shut down reactors that are either undergoing or have completed decommissioning. It is part of DOE’s current strategy to site, design, license, construct and operate a pilot interim storage facility with an initial focus on accepting spent nuclear fuel from already shut down reactor sites. The third revision of this report incorporates information for VY that DOE obtained during its May 2016 site visit. The report is available for download from the DOE’s Office of Nuclear Energy website.

VY “Shipping & Receiving” Warehouse Being Abandoned

In preparation for abandoning VY’s Shipping and Receiving Warehouse (located in the southwest corner of the Protected Area) prior to winter, the several remaining office-space occupants within this building are being relocated. Accordingly, the State Nuclear Engineer’s onsite office is moving to the VY Administration Building. The hazardous materials storage area contained in this building will be relocated to another onsite structure.

Fort Calhoun Power Station Permanently Shuts Down

Consistent with a June 2016 decision by its owners (the Omaha Public Power District), the Fort Calhoun Nuclear Power Plant completed a final shutdown on 10/24. Certification of permanent defueling is expected within the next 30 days. Once this occurs, VY will no longer be the most recent U.S. nuclear power plant to be permanently shut down.

Vermont Gas Systems Transmission Pipeline Construction Projects

The Department Pipeline Inspector monitored pipeline construction activity related to the ANGP project in Rutland and Chittenden Counties and the Phase VI looping project in Georgia, VT. The majority of the ANGP construction is complete with the exception of 5 mainline valves and a pipeline segment at Geprags Park in Hinesburg. Dewatering activities occurred following a pipeline pressure test between Hinesburg and Middlebury. The company expects to pressure test the new pipeline segment in Georgia within a week.

New England Pipeline Safety Seminar

On 10/19/16 and 10/20/16, the Department and other state pipeline safety agencies (ME, NH, MA, RI, CT) hosted a seminar in Portland, ME, to inform pipeline operators of current regulatory responsibilities, as well as new and future (state and federal) regulations applicable to the pipeline industry. Recent accidents and other national pipeline incidents were examined along with the root causes for failures and resultant consequences. Other presentations examined current methods to address pipeline safety threats along with applicable emerging technologies. The Gas Engineer presented Department activities and concerns related to pipeline safety and participated in a forum to answer pipeline safety regulation questions from the industry.

Public Advocacy

Otter Creek 4.99 MW Solar in Rutland – Docket 8797

The PSD participated in a joint prehearing with docket 8798 held before the PSB. This is one of five dockets in which PSD and ANR jointly filed a motion for an order to show cause, along with a memorandum in support of the motion. In this docket, ANR and PSD request the PSB

require the petitioner show cause as to why the current landowner's (the petitioner's sister company) plan, to clear the existing vegetation prior to receiving a CPG, does not constitute pre-CPG site preparation or construction in violation of 30 V.S.A. § 248. At the prehearing, ANR, PSD, VDHP and AAFM voiced the shared preference for resolving the motion for an order to show cause prior to commencing docket activities. Otter Creek voiced its preference for parallel path schedules. The Board took the matter under advisement.

Otter Creek 2.2 MW Solar in Rutland – Docket 8798

Same write-up as above.

SunE Solar Rutland – Docket 7957

The CPG holder was ordered to show compliance with testimony (incorporated into the CPG) that it would preserve a 20-foot fire lane. The compliance affidavit did not demonstrate compliance and the fire chief is particularly concerned for the safety of the occupants of the onsite building. The PSD informed the PSB that the parties have reached a settlement in principle that will resolve all issues, including a \$17,000 sanction. The PSD and SunE have negotiated stipulation language. The PSD provided that language to the fire chief, who has been a key participant in the terms. Finalizing the stipulation will take place upon sign-off from the Town of Rutland's attorney.

Petition of Robert Garthwaite to Revoke CPG #NM-1771 – Docket 8774

This case involves a complaint that the holder of the CPG, David Blittersdorf, did not construct the turbines in accordance with the CPG application. The Board issued a scheduling order on October 24th requiring Mr. Blittersdorf to file a second, supplemental affidavit by November 1st that is fully responsive to the Hearing Officer's initial order requiring the Respondent to respond to a number of questions. Following the filing of this affidavit on November 1st, parties will serve discovery on Mr. Blittersdorf and then file further scheduling proposals within seven calendar days of the close of discovery.

GMP Innovative Products Tariff Filing – Docket No. 8794

VEIC, the Association of Vermont Credit Unions, and the Vermont Fuel Dealers Association filed Motions to Intervene. The Department will be working with these intervenors and GMP to file a proposed schedule by October 28. The Department anticipates another round of discovery requests to GMP will go out by the end of next week.

Norwich Technologies Sharon Solar Array 500 kW Solar Group Net-Metered Facility in Sharon – Docket 16-0034-NMP

On August 30, 2016, the Board ordered Petitioner to treat its revised site plan as a "substantial change" and file supplemental materials in response to concerns raised by the Department, the Vermont Division of Historic Preservation ("DHP"), the Town, the Regional Planning Commission, and adjoining landowners. The Department filed comments on October 26, 2016 indicating its overall conclusion that the filings satisfied the Board's outstanding concerns, but identifying the need to continue to work with the Town of Sharon and the Two Rivers-Ottawaquechee Regional Commission as landscape mitigation and location in a historically sensitive area have been the primary impetus for these supplemental filings.

GMP Hydro Declaratory Order – Docket No. 8826

As part of GMP's proposed acquisition of Vermont and non-Vermont dams (docket 8827), it filed a companion request for declaratory order related to certain conditions in two of the Vermont dams' CPGs. The CPGs, issued decades ago, contain requirements pertaining to 401 certifications and minimum stream flows. GMP wants these provisions either declared preempted or the CPGs transferred to GMP. DPS staff has alerted ANR about the request (given that the subject conditions are related to environmental matters) and is reviewing the preemption issue. A response is due November 3. DPS staff has prepared a draft that suggests that the Board simply revoke the 248 CGPs as the optimum regulatory solution.

VGS Addison Expansion –Notice of Probable Violations-Docket 8814

A NOPV regarding Vermont Gas's construction practices where electric transmission lines are present was transmitted to VGS on August 8. The NOPV alleges that Vermont Gas failed to follow its own Specifications in this regard. The NOPV requests, among other things, a civil penalty in the amount of \$150,000. Vermont Gas has submitted a preliminary response to the Board and a final response is currently due November 9. In the interim, Vermont Gas and the Department have been meeting to review our supporting evidence and on October 24, VGS outlined in a letter what it would be willing to agree to in an MOU. It contains a very general admission of liability and agrees to a substantially lower penalty of \$35,000. Staff is reviewing this proposal.

In connection with the NOPV, 350.org and some of the other opposition groups filed a voluminous petition with PHMSA on October 17th requesting emergency intervention by PHMSA due to the alleged inaction and ineffective supervision of the Department with respect to pipeline construction. PHMSA has submitted an information request to the Department, which is due October 28. Engineering has prepared a draft response to PHMSA, which is currently being reviewed.

Public Records Requests-no docket

The PSD continues to receive almost daily Public Record requests for detailed information regarding the Addison pipeline. These consume a significant amount of staff time, and evidently provided fodder for the complaint to PHMSA (see above).

VGS-Town of Hinesburg condemnation-Docket 8643

This parcel is in a park owned by the Town. The Board issued an order on September 13 granting the condemnation petition, but significantly revising the requested Easement Deed based upon the Revised Stipulation with the Town and the live testimony at the technical hearing. The Resident Intervenor filed a Motion to Reconsider with the Board on September 27, together with a Notice of Appeal to the Supreme Court. VGS submitted its Response in opposition to the Motion on October 3 and the Town advised that it would not be filing a Response to the Motion. On October 11, the Department recommended that the Intervenor's Motion to Reconsider be denied and the Board's order affirmed. On October 17, the Intervenor filed a Response to Opposition to their Motion for a New Trial alleging that neither VGS nor the Department had addressed their claims adequately.

Triland Williamstown Solar Project-Docket 8666

Petition to construct a solar electric generation facility of up to 2.2 MW off George Road in

Williamstown. On June 17, the Department and ANR jointly submitted a request to the Board to open an investigation into alleged pre-CPG activity at the Project site. The Board took no action on this request, but on September 28, the hearing officer requested that the parties submit a status update and advise if ANR still thinks an investigation is warranted. On October 19, the Department, together with ANR, submitted a Motion for an Order to Show Cause why this conduct is not in violation of Section 248; a supporting legal memorandum was submitted with the Motion. Triland filed a status report on October 19, together with supplemental testimony, which staff is reviewing. On October 20, Triland filed a Response to the Motion to Show Cause, requesting that it be denied and a status conference convened.

DigSafe violation-Eustis Cable and Comcast-no docket

The Department has been contacted by the Clerk's office to set up a time for a technical hearing. In response to a June 2016 NOPV issued by the Department to Eustis regarding damage to Comcast's facilities, Eustis has denied wrongdoing and requested a hearing. The Department is discussing how best to put forward our position.

Sheffield/Brouha Penalty Investigation – Docket 8653

The parties' respective sound experts met to discuss competing proposals in an attempt to arrive at consensus sound monitoring and data analysis protocols to be applied to the additional exterior sound monitoring ordered by the hearing officer to take place at the Brouha residence. The experts were able to agree on a number of protocol parameters – to the point where an additional meeting to resolve a handful of outstanding issues has been agreed to. Generally, the agreed-upon portions of the protocol call for monitoring during the spring and fall months and set parameters for culling data for analysis. There is disagreement among the experts as to the extent of how they are constrained by the terms of the existing CPG requirement of the one-hour Leq measurement time interval and metric. Parties are reviewing their options and looking to determine next steps shortly.

Telecommunications

Cell Tower Data

The PSB has processed 661 petitions for cell towers under 30 VSA 248a since 2010. In 2013 PSD staff reviewed these petitions and created a database with details about these tower sites. The database contains the geographic locations of 237 tower sites, including the address and importantly the geographic coordinates. There are often multiple transmitters on individual towers, and the database lists information for about 443 separate transmitter attachments. PSD staff has started the process to review the remaining 425 petitions to bring the tower database current.

VUSF Audit – The VUSF is audited annually. The auditor is selected by the fiscal agent and approved by the Department. Division staff approved of Solix's recommended choice: Hulbert, LLC. The audit was completed last week. Department staff found several deficiencies with regard to the notes in the audit. In addition, the audit included factual errors and ambiguous statements. It also included outdated information that was clearly copied from previous audits. In addition, Finance and Management notified staff that the audit lacked information about FDIC insured funds. Staff have asked Solix to request that the auditor correct these deficiencies.

Central Greens Fiber Project – The Central Greens fiber construction project is a 41-mile network of fiber throughout Bethel, Stockbridge, Hancock, and Rochester. This project is near completion, but was delayed by a make ready survey. VELCO has agreed to enter into a license agreement with the Department so that the network can be completed with already established VELCO fiber. VELCO has begun working on the interconnections between the two networks. The Department's contractor reports that the overall system is almost done, with only some fiber access enclosure installations left to install. Division staff, unfortunately, allowed the construction contract to lapse without seeking an extension. This has delayed completion of the project. Staff last week submitted a memo to the Secretary of Administration requesting a waiver to the contract extension rule.

Williston Rest Stop Lease

Last year AoT negotiated an amendment to the AT&T lease inside the Williston Rest stop. The lease amendment allowed AT&T to exchange equipment. The lease expired in August 2016, and it appears there was no extension to the term. Division staff have raised this issue with AoT staff and intend to push a license agreement forward.

Verizon § 248a Petition for new tower in Waterbury Center - Docket 8601

Verizon has had an application pending since last October for the installation of a new tower on a parcel of land located adjacent to the Stowe-Waterbury town line. The application is opposed by several groups of neighbors. The Town of Waterbury and ANR have also both intervened in the docket, and are seeking to have Verizon move the facility location. Attempts at a settlement for a change of the facility location have thus far failed. The Board scheduled a site visit for October 27. The docket is currently proceeding through discovery, and ANR, the Towns, and the neighboring parties spent two days deposing Verizon's technical witnesses that filed testimony in the docket. ANR opposes the project because its proposed location lies within a habitat migration corridor. ANR, through its prefiled testimony, intends to propose that the Board require Verizon to move the project location to a different location on the same parcel. The Department has consulted with ANR staff, and has agreed that it will submit information and/or testimony from its retained RF expert regarding propagation from the alternate location proposed by ANR.

Charter Line Extension Tariff Investigation - Docket 8715

In response to two consumer complaints, the Board initiated a proceeding to determine whether Charter is complying with its line extension tariff. Two consumers complained that Charter is imposing costs on consumers that should be borne by the company when it completes line extensions (such as overbuilding existing cable lines and installing new nodes). Charter reached a settlement with one of the consumer, but still has a dispute with the second consumer over the cost of the line extension. Charter, however, has requested that the Board close the docket because it has offered to pay for the line extension at costs below what it believes it is required to cover under its line extension tariff. The Department plans to file comments opposing Charter's request to have the docket dismissed as the complaint is still outstanding. The Board requested that the Department respond to Charter's letter by October 26, 2016.

Telecom & Connectivity Transition Report: In preparation of the upcoming change in Administration, the Telecommunications & Connectivity Division has been preparing a report that will offer assistance to the next Administration, as they work to understand the current status

of telecommunications in Vermont. Each member of the Telecommunications & Connectivity team compiled a report on the projects under their purview, and has detailed each job and its plan moving forward. These summarizations will be compiled into one report highlighting all job responsibilities and duties currently overseen by the division.

CoverageCo Project – Vanu CoverageCo is a company who was awarded the VTA and EDA Resiliency Projects to provide cellular service in unserved areas of Vermont.

Project Activities

Department staff spent 2 days in Cambridge, MA for project meetings with CoverageCo. There were many good takeaways. Among them, we were able to see how the project planning process takes place and how the department can influence the prioritization process. Also the Department reviewed the network operation structure and processes used for problem escalation and resolution. The long disputed deadlock with Topsham Telephone, the backhaul provider to the area, was broken paving the way for planning of the Topsham resiliency and other EDA pole sites in the area.

In the previous two weeks CoverageCo has had TDS install the backhaul on six sites in the Roxbury area, including the resiliency site. Commissioning of the sites began last week and all sites will be commissioned by early this week. Two Roxbury sites have pole issues. Equipment is installed on one pole which the land owner will not give permission for service. The other pole is located on marsh land. Both need to be moved and a plan was agreed upon.

CoverageCo has contracted with Fairpoint for backhaul services for 7 sites in the Strafford area. Fairpoint identified some work required on 5 of the poles. The work should be completed this week and E911 and commissioning should be planned for next week.

CAPI

Report period for October 16 to 22, 2016

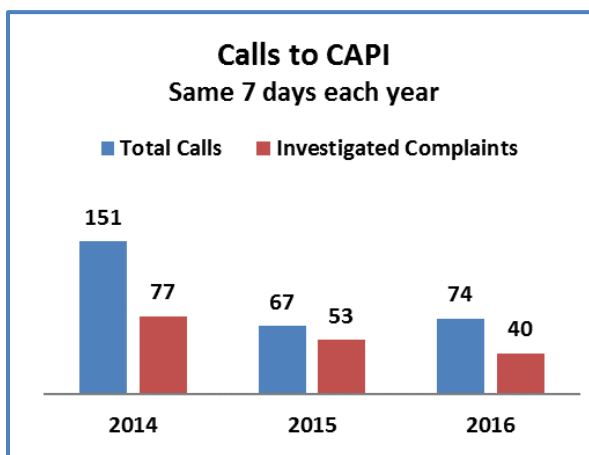
Lifeline – CAPI provided comments to the FCC about the US Telecom petition seeking waivers to implement certain parts of the Modernization Order for many states including Vermont.

FairPoint Docket #8701 – CAPI worked with Telecom and the expert consultant to provide testimony.

GMP #8794 – CAPI participated in the innovative products tariff workshop.

Website – CAPI staff joined a PSB committee working on their website, shared tips and ideas.

Stowe Electric – request to review and potentially change one of their service quality metrics. CAPI will collaborate with Engineering.



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