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**Sent:** Saturday, December 03, 2016 4:10 PM  
**To:** GPS  
**Subject:** Fwd: Additional Weekly Reports - Executive Privilege  
**Attachments:** Public Service.pdf; ATT00001.htm; ED.pdf; ATT00002.htm

FYI - DPS and Ed reports

Sent from my iPhone

Begin forwarded message:

**From:** "Mishaan, Jessica" <[Jessica.Mishaan@vermont.gov](mailto:Jessica.Mishaan@vermont.gov)>  
**To:** "Allen, Susan" <[Susan.Allen@vermont.gov](mailto:Susan.Allen@vermont.gov)>, "Kunin, Lisa" <[Lisa.Kunin@vermont.gov](mailto:Lisa.Kunin@vermont.gov)>, "Carrier, Janis" <[Janis.Carrier@vermont.gov](mailto:Janis.Carrier@vermont.gov)>, "Clasen, Michael" <[Michael.Clasen@vermont.gov](mailto:Michael.Clasen@vermont.gov)>, "London, Sarah" <[Sarah.London@vermont.gov](mailto:Sarah.London@vermont.gov)>, "Miller, Lawrence" <[Lawrence.Miller@vermont.gov](mailto:Lawrence.Miller@vermont.gov)>, "Johnson, Harriet" <[Harriet.Johnson@vermont.gov](mailto:Harriet.Johnson@vermont.gov)>, "Springer, Darren" <[Darren.Springer@vermont.gov](mailto:Darren.Springer@vermont.gov)>, "Gingras, Jessica" <[Jessica.Gingras@vermont.gov](mailto:Jessica.Gingras@vermont.gov)>, "Pepper, James" <[James.Pepper@vermont.gov](mailto:James.Pepper@vermont.gov)>, "Dudley, Jahala" <[Jahala.Dudley@vermont.gov](mailto:Jahala.Dudley@vermont.gov)>, "Trombley, Shana" <[Shana.Trombley@vermont.gov](mailto:Shana.Trombley@vermont.gov)>, "Gray, Laura" <[Laura.Gray@vermont.gov](mailto:Laura.Gray@vermont.gov)>, "Coriell, Scott" <[Scott.Coriell@vermont.gov](mailto:Scott.Coriell@vermont.gov)>, "Martin, Trey" <[Trey.Martin@vermont.gov](mailto:Trey.Martin@vermont.gov)>  
**Subject:** Additional Weekly Reports - Executive Privilege

Public Service and Agency of Ed attached.



**Privileged and Confidential**

**MEMORANDUM**

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

From: Christopher Recchia, Commissioner

Date: December 2, 2016

Subject: Weekly Report

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**Governor Level Issues:**

**Status of Priorities and Cases of Interest:**

VY - entergy and Northstar presented its proposed transaction to the NDCAP meeting Thursday night. Discussion was good and many in the audience and panel had generally positive reaction with appropriate cynicism and reserved judgement.

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

Technical hearings are set to begin on December 8 in the Pavilion auditorium and last for 5 days. VGS has turned down an offer to postpone the hearings and engage in settlement discussions and instead opted to proceed to technical hearing. The parties are coordinating on logistics and developing cross. The time has passed for VGS to file objections to DPS rebuttal, and DPS staff is not aware of any preliminary motions coming. VGS has indicated a desire to perhaps amend certain testimony pertaining to a proposal regarding an accounting order. The Department will likely oppose efforts to supplement or change testimony at this stage, although we also offered them the opportunity to do so if the schedule was extended to accommodate it. Settlement discussions may be able to occur after the technical hearings are complete.

Permanent Wind Noise Rulemaking – No Docket

The Board is hosting a workshop on the wind noise rule today (Friday). We had our experts present on the level of 45 DbA and they were very impressive and credible.

#### Swanton Wind Rule 4.100 PPA – Docket 8571

The Department filed a response to GMP's motion to dismiss the petition because SW has sought approval under the old Rule 4.100. The Department supports the motion and agrees that any PPA related to the wind project should meet the requirements of the new Rule 4.100. Swanton Wind also filed a response to the motion, which the Department is currently reviewing. Further replies are due to the Board by December 8.

#### Vermont Green Line-Docket 8847

400 MW electric transmission line, converter station and associated facilities to be located under Lake Champlain and in the Towns of Ferrisburgh, Waltham and New Haven. A prehearing conference was held on November 30. The Petitioner, Vermont Green Line Devco LLC, proposed a schedule in advance but there was no consensus among the parties at the PHC. The Board gave parties until December 14 to either agree upon a schedule or file competing schedules. The Department is working with ANR and the Petitioner to try to create a mutually agreeable schedule. The Petitioner committed at the PHC that it would go forward with the Project even if it does not prevail in its current dispute with ISO-NE regarding upgrades that ISO-NE deems necessary for the Project's interconnection, which are estimated to cost approximately \$100M. We have not yet evaluated the VGL's proposed state and public benefits in its application. BED is expected to oppose this project even with the upgrades as it may result in curtailment of McNeil. We will be, at least on a preliminary basis, evaluating the project to upgrades needed to support full operation of the line without curtailment of existing Vermont facilities.

#### GMP Innovative Products Tariff Filing – Docket No. 8794

The Department met with GMP on November 17, 2016. GMP agreed to file supplemental testimony as a result of these discussions. Counsel also spoke with various counsel from GMP regarding some of the outstanding legal issues. On November 29, 2016, GMP filed a letter with the Board indicating that it intends on filing supplemental testimony by December 2, 2016 (today). The Department filed a letter requesting until December 14, 2016 to file its testimony. On November 30, 2016, the fuel dealers filed a letter supporting the Department's request until December 14, 2016 to file its testimony, and went on to indicate that if the supplemental materials are "substantive" it may require additional discovery. The Board issued an Order on November 30, 2016 indicating that the parties must file comments on December 5, 2016 indicating when they will be able to file non-petitioner testimony.

The Department received a draft of GMP testimony on Thursday morning with the request to review and provide feedback in order for GMP to file by Friday. Department staff reviewed the GMP testimony that afternoon and found some topics previously discussed and agreed to be lacking. A phone call was held with GMP and Department representatives on Thursday afternoon to convey this feedback. There was extensive and at times intense discussion of whether or not GMP was willing to have shareholders hold any risk for a significant differential between costs and revenues of this program. Conversations continued on Friday and resulted in an agreement that GMP would seek a 1 year extension of the pilot project. The rest of the day today has been spent trying to determine the appropriate mechanism to accomplish this. It was agreed that GMP would file today a request to put the tariff in abeyance and that they would file

the pilot request on Tuesday. Instead, we were surprised when they simply told the board they could not file today and would do so on Tuesday. This is not the first time an agreement has been altered, but it is extremely frustrating. We will discuss with GMP on Monday whether the people we are speaking to have negotiating authority or not. Meanwhile, we will work with what they filed.

**Meetings This Week:**

Nov 28 – Darren Springer meeting

Nov 29 – RPC Meeting on Act 174, Trey Marting and Jim Volz meeting

Nov 30 – Climate economy summit

Dec 01 – NESCOE Manager's meeting, NDCAP Meeting

Dec 02 –

**Meetings Next Week:**

Dec 05 – GMP Panton Meeting

Dec 06 – Act 174 Meeting

Dec 07 –

Dec 08 – CCRPC Act 174 Training

Dec 09 – VEDA Board Meeting

**Media:** Mike Faher on NDCAP and VY, Press Release on Siting Standards, Various media on VY announcement; AP (Dave Gram) on VY, Wind, E-911

**Public Official Contacts:** None

**Everything Else:*****PERD*****Act 174 / RPC Planning**

- Act 174
  - Continued drafting guidance document for towns and regions to assist them in meeting Act 174 planning standards. Coordinated team to complete energy efficiency, transportation, and renewables sections.
  - Received feedback from RPCs Analysis standards guidance. They would like something much simpler, with examples and formulae into which they can just plug their LEAP results.
  - Presented on standards to VPA Planning & Zoning forum attendees along with deputy commissioner and Jim Sullivan of BCRC.
  - Met with pilot RPCs – who form the “core RPC energy training team” – to discuss analysis guidance, maps, and upcoming training. They used the time at the RPC meetup 11/29 to introduce their training materials to the other RPCs. Staff from DPS were in attendance to answer questions.
  - Drafted grant agreement to ACCD for LiDAR mapping and for Act 174 mapping to assist the RPCs and us in (a) determining regional wind and solar targets, and (b) obtaining resource maps with known and possible constraint layers on top, to meet the standards. ACCD's Act 174 portal is available here: <http://vcgi.vermont.gov/opendata/act174>. Received initial cut of map with all

possible constraint layers and note that very little completely “unconstrained” area remains, primarily due to ANR’s Vermont Conservation Design possible constraint layer, which is quite extensive.

#### Energy Efficiency Utility Activities

- Staff met internally to review Tier III and EEU 2017 Annual Plans submitted to the Board.
- Staff met internally to discuss VEIC’s request to form a working group to address potential changes to the way the EEC is calculated. Staff believe a meeting with VEIC to discuss the issues and a path forward would be a good next step.
- Demand Resource Plan Proceeding
  - Staff discussed the following with VEIC
    - Staff finalized drafting a recommendation to the Board indicating that both DPS and VEIC’s proposed definitions related to Peak Demand reductions should be included in electric modeling outputs. DPS maintains a definition of Lifetime Summer and Winter Peak Demand Reduction and VEIC maintains a definition of Forward Capacity Market Resource. Staff passed the memo to the legal division to file.
    - Staff met with VEIC to review round two of scenario modeling and other DRP related issues including:
      - DPS Staff reviewed EVT’s planning tool and met with EVT DRP team to review base case scenario model. All agreed that the proposed lighting baseline jump in 2020 is appropriate for this first round of modeling and is conservative given unknown federal EISA rulemaking. The same assumptions will be used for the BED scenario models and the Potential Study so that they will all be calibrated with each other. As a result savings drops off significantly, however other technologies make up the difference – including EEC funded cold climate heat pumps. This assumption will be revisited before the final round scenario modeling.
      - Reviewed assumptions about pace and load impacts from cold climate heat pumps. Some follow up required to ensure that max sales assumption from T3 aligns with VELCO load forecast.
      - VEIC’s delivery of Development and Support Services draft was due to DPS on November 18 – it remains a work in progress, so it will be late.
    - Board Staff issued a memo requesting comments on a motion for reconsideration filed by Conservation Law Foundation (CLF) requesting the Board amend statements in an Order related to restrictions on use of Thermal Energy and Process Fuel funds. The due date for comments is November 30. However, staff have requested more time. Legal spoke with CLF and they did not have a problem with extending the deadline. In that discussion CLF made mention of requesting a workshop on strategic electrification, including a presentation by the Regulatory Assistance Project, in the DRP proceeding.

- Potential Study: DPS staff had the first check-in with GDS/Cadmus since the kick-off and the project is proceeding on schedule. Data collection from EEUs is nearly complete.
- Staff held a quarterly meeting with VEIC on Resource Acquisition Research and Development
  - More definition on CEI Lite and the Low Income Multi Family pilots was provided and Staff referenced its contractor's feedback on the pilot's evaluability and overall design is forthcoming within the next week. EVT is still planning to pause the Residential Home Energy Report program to re-design the reports to tailor messaging. The pause could be as long as 6 months.

### State Energy Program

- REVEAL
  - Participated in regularly scheduled bi-weekly meeting. EVT reported that there has been just over 30 Home energy scores completed in Vermont. EVT staff are currently testing the revised DOE Home energy score software tool, which was modified to more accurately score homes with CCHP's and Solar PV. They will be providing feedback to DOE on their findings. Nine of the certified VT assessors have lost their certification (assessors must score at least one home every 6 months or they lose their certification), so there are now seventeen remaining.
  - The DOE Program Manager reported that because of the election everything is up in the air and its not looking good that the VT request for additional funding (which was initiated by DOE) will be approved. However final decisions have not yet been made.
  - Reviewed and processed invoices totaling \$25,000.
- Interconnection – Continued the process of handing over PI duties to Bill Jordan
- Base – Annual call with DOE SEP leaders to check in on how the program is going and to provide feedback to DOE. PSD staff received compliments from DOE for fully spending down our last years grant award (no carryover allowed because it was the end of the 3-year program period). They said not many states are able to achieve that.

### Heat Saver Loan/Thermal Energy Finance Pilot

- Received final comments and input on the draft Thermal Energy Finance Pilot “Heat Saver Loan” Program Report from EVT, OCU and VSECU; also PERD staff. The report will be prepared for final distribution next week.
- Assisted with preparations and attended press conference by Governor Shumlin at a HSL participant's home in Montpelier. The Governor provided some statistics from the pilot provided by staff. He also talked about the on-bill finance option connected to Act 56's Tier 3. The event was covered by two TV stations, VPR and others.
- The day after, VSECU reported an uptick in phone calls from prospective borrowers.
- Drafted a transition plan for continuing the HSL after the pilot ends.

### Rural Energy Service – Efficiency Vermont Loan Program

- Received draft proposal outlining the case for re-purposing the loan loss reserve from the now-closed energy loan guarantee program at VEDA (\$500k). Began drafting the department's request to DOE for re-purposing the funds.

### Clean Energy Development Fund

- Started drafting the CEDF annual report
- Continued working on database needed to complete the annual report
- Clean Energy Industry Report – Presented request for guidance on contracting to F&M staff to determine the proper course of action for the fourth report.
- Completed negotiations and drafting on a \$22K contract with BERC for baseline study of VT's advanced wood heating sector
- Submitted and got published an op-ed re: advanced wood heating and its connection to the declining low-grade wood market in the Northeast.
- Had a long meeting with VEDA going over the draft grant agreement to administer an interest rate buy-down program for roof-top solar and advanced wood heating and all the federal restrictions. Progress was made but more work needs to be done to get grant agreement language completed.
- Approved a \$12,500 invoice to Casella for construction work completed on their organic waste receiving facility in Rutland as part of their food waste-to-digester grant.
- Completed draft wood-change out forms and sent them to stove retailers for comment. Spoke to a few of the retailers about the program and the forms.

### Renewable Energy

- Met with ACCD to discuss Act 56 solar screening bylaw report, due to the Legislature Jan. 15. ACCD has compiled the most up-to-date list of towns that have adopted such bylaws, and it is our responsibility to outline the use of those bylaws in 248 proceedings.
- Staff met with representatives from several utilities to discuss implementation and interpretation issues regarding the new net metering rule. The meeting will likely result in comments from the utilities that we may then support.
- Attended public hearing on PSB's new Net Metering rule
- Participated in a call with GMP and the Pine Island Community Farm. GMP will be providing this non-profit farm that works with international refugees, a grant (suggested by CEDF) from their NEIL funds for a solar PV system.

### Standard Offer Program

- Parties submitted second round of comments responding to Board's request for recommendations on how to integrate "Preferred Locations" pilot into the 2017 auction. DPS filing made one point: the procedures for certifying whether a project qualifies as "Preferred" should be consistent with the procedure ultimately developed for Net Metering applications, which are subject to the same definitional categories.
  - REV recommended that storage projects be admitted into program with specific capacity set-aside and price cap.

### Fuel Price Report

- EIA updated the respondent sample used for survey. It now includes one new Propane dealer in Greenfield, MA.

### Other Items

- Climate Cabinet – Collected, wrote and edited materials from PERD staff for the the

Climate Cabinet website. Coordinated with PERD director, ANR staff and website contractor on the energy site structure. Submitted initial materials for review.

- Attended a meeting of the DEV Stakeholder Engagement Committee. VEIC are developing a presentation that stakeholders can use when engaging policy leaders, and the meeting solicited their feedback about useful content, structure, and framing.
- Act 92 (Building Energy Goal Tracking Working Group) Annual Report: all data is in, and GHG calculations complete. Internal draft in process.
- Met with GMP, Sandia National Lab, Lawrence Berkely National Lab, RAP, and Mark Lowry to discuss the future of electric regulation in Vermont and to scope some modeling to be done by the labs. We should get back to them with some ideas about modeling this week.

### ***Regional***

#### **FERC Notice of Proposed Rulemaking on Storage**

- On November 17, FERC issued a Notice of Proposed Rulemaking to encourage the participation of storage in competitive wholesale electricity markets. FERC is proposing that all Regional Transmission Organization establish a specific category for storage, so that the resource does not have to choose to participate as generation or demand response, depending on the individual markets. In addition, FERC is requesting comments on whether and how storage can provide both energy and ancillary services.

#### **Otter Creek Petition for Enforcement at FERC**

- On November 30, in response to Otter Creek's claim at FERC that Vermont was interfering with renewable development and failing to properly implement a federal statute (PURPA), the DPS, Public Service Board, and National Association of Regulated Utility Commissioners filed comments in opposition.

#### **Transmission Cost Allocation for Belmont Municipal**

- The NEPOOL Reliability Committee provides advisory votes on the Transmission Cost Allocation application, although ISO-NE can make its own determination. The Transmission Cost Allocation is a determination as to whether transmission costs are socialized among the region or borne only by the ratepayers served by the constructing transmission owner.
- On November 16, NEPOOL voted against Eversource's Blair Pond substation application, with only 26% in favor. This is the first time that there has ever been a vote against a Transmission Cost Allocation application. It is unclear what ISO-NE will do with Eversource's proposed cost allocation, although there is a good chance that whatever ISO-NE does will result in a complaint at FERC.

### ***Engineering***

#### **Update on VY Groundwater Management Issues**

As of 11/16, approximately 386,000 gallons of intrusion water have been shipped offsite. No water shipment occurred during the 11/21 work week due to the extended Thanksgiving holiday combined with the initial reduction in intrusion water flow rate resulting from recent Seismic Gap resealing efforts. Recent incursion flow rate measurements have the current flow rate at



roughly 300 gallons per day (significantly below the previously typical 950 gallons per day rate). The typical incursion flow rate is expected to roughly 450 gallons per day once spaces that were drained to support the Seismic Gap reseal effort refill with intrusion water. The onsite outdoor intrusion water storage tank has been winterized.

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

Debris removal from demolishing the former North Warehouse (which was within the footprint for the second ISFSI pad) was completed on 11/18. Excavation for constructing the second ISFSI concrete pad commenced on 11/21 and continues.

#### NRC Completes Fourth Quarter 2016 VY On-Site Inspections

Steve Hammann, the NRC's Region 1 Senior Health Physicist & Lead Decommissioning Inspector for VY, and Jack Parrott, the NRC's Project Manager for VY oversight in the Office of Nuclear Materials Safety and Safeguards (NMSS), completed a week-long, on-site inspection at VY on 11/17. The inspection resulted in no significant findings. The NRC remains satisfied with VY's use of its Condition Report program to identify potential equipment repairs to support Spent Fuel Pool integrity and its subsequent tracking and implementation of those repairs. The NRC is also satisfied with the progress that VY has made in reducing its average daily groundwater intrusion flow rates.

#### State Nuclear Engineer Notified of Upcoming Opportunities for Comments on VY Decommissioning

In an 11/17 meeting, the NRC's Jack Parrott notified the State Nuclear Engineer that Entergy, NorthStar Holdings and NRC Staff will hold a Public Meeting at NRC Headquarters in late January 2017 (after the Presidential Inauguration) to outline NorthStar's proposed purchase of VY, the likely changes to VY's decommissioning schedule and the VY Post-Shutdown Decommissioning Activities Report (PSDAR) that would result from the purchase. Additionally, a 30-day comment period will open in early December for VY's proposed use of US Ecology's hazmat facilities in Idaho for disposing of radiologically contaminated "process" water. This comment period will only be available to the shipment origin state (Vermont) and the shipment destination state (Idaho).

#### Vermont Gas Systems Addison Transmission Pipeline Project Construction

The majority of the ANGP pipeline is completed, however VGS contractors continue to perform pipeline construction and analysis activities related to it and the Phase VII looping project. Erosion control mats are being removed, electric power continues to be installed for system control and monitoring, grading of topography and fencing near above-ground equipment are also in progress.

#### ***Public Advocacy***

##### GMP Hydro Acquisition – Docket No. 8827

GMP has proposed to acquire 4 Vermont and 10 non-Vermont dams from Enel. This docket is a request for a CPG for the 10 non-Vermont dams. The first round of discovery is complete, a second round will be submitted on December 2, with testimony from non-petitioners due on December 23. This case drew an intervention from Allco, which was denied, and which they are seeking reconsideration of. The Department is staying out of that fight.

#### GMP Alt Reg – No Docket

Next year has arrived. GMP filed its ESAM. An initial look indicates that GMP is not claiming under-earnings this year. They also (predictably) beat the synergy savings target and so there will be some money returned to ratepayers next year come October 1. Staff will begin review either later in December or early in January.

The Department continues to wait for GMP to write up a proposal for an agreed-upon resolution to the vegetation management dispute that has been simmering for a couple years.

#### GMCW Noise Investigation – Docket 8613

The Board held an oral argument requested by GMCW to challenge the Hearing Officer's proposal for decision recommending that GMCW be ordered to offer attenuation testing at the McLane residence in response to a sound complaint filed in September, 2015. GMCW argued that the Hearing Officer's finding – that GMCW's sound expert's own report during the project's first year compliance monitoring program indicated that there were at least five instances where project-only sound levels were within 5 dBA of the 45 dBA exterior sound limit, triggering an offer to conduct attenuation test at the McLane residence per the terms of the project noise monitoring protocol – was erroneous because that data had been discarded by the expert for purposes of CPG compliance determination due to wind contamination. The Department agreed with the Hearing Officer that the contaminated sound estimates at issue were properly discarded from consideration of strict CPG compliance, but could be used as a basis for determining whether a reasonable possibility existed that sound levels at the McLane residence were within 5dBA of the exterior sound limit, triggering the attenuation offer. The parties await an order from the Board on the proposal for decision.

#### GMCW Icing Investigation – Docket 8734

The Board held oral argument on GMCW's motion for reconsideration of the Board's order finding GMCW in violation of its CPG and winter operating protocol due to operation of the facility during icing conditions. The sole issue was whether "extreme weather conditions" – a term GMCW included in its winter operating protocol – must be present in addition to one of five enumerated conditions established by Board order prior to initiation of an icing-related turbine shutdown. The Board, Department, and McLanes agree that extreme weather conditions were not required. GMCW sought to convince the Board otherwise, but did not appear to make much headway on that point. The parties await an order from the Board on the motion.

#### Coolidge Solar 20 MW facility in Ludlow - Docket 8685

The petitioner informed all parties that the project has been selected as a winning bid to the Connecticut renewable energy RFP. GMP filed Kim Jones' surrebuttal testimony in which she does not anticipate system stability or reliability issues; but, recommends a four week party comment period and PSB approval of the final SIS. ANR and the petitioner entered into an MOU. The PSD is working with Coolidge to resolve some outstanding aesthetic and engineering issues. Discovery is due on the PSD surrebuttal testimony by November 30<sup>th</sup>.

#### TDI New England Clean Power Link Project – Docket 8400

The PSD requested until January 16, 2017 to vet TDI's recently completed SIS and to provide a status report. The PSD has reached out to BED, GMP and VELCO regarding the issue.

#### Gilman Renewal Solar – Docket 8725

This case concerns a 2.1 MW solar facility on a closed landfill in Lunenburg. Following discovery and a public hearing, the Department determined that its only concern related to the adequacy of the decommissioning fund. A similar concern was addressed in a recent docket, in which PSD successfully advocated for a more robust methodology for calculating the fund requirement. The Petitioner agreed to modify its proposal on this point, and filed supplemental testimony explicitly agreeing to the PSD's methodology. PSD filed a letter on 11/29 advising the PSB that it had no need to cross-examine Petitioner's witnesses, and waiving a hearing. ANR had already entered into a settlement with Petitioner, so there appear to be no contested issues.

#### BDE Fairfield Lazar Solar, LLC 500 kW Group Net-Metered Facility in Fairfield – Docket 16-XXXX-NMP

This Project is sited on agricultural lands that primarily shield the Project from public views based on topography and existing vegetation. The Department filed a comment letter on November 30, 2016, which raises some system stability and reliability concerns to be addressed with GMP and VEC.

#### VWSD, LLC 500 kW Solar Group Net-Metered Facility in Enosburgh – CPG #16-XXXX-NMP

This Project is sited on a retired sand pit surrounded by a forested area. The Department filed a comment letter on November 30, 2016, which raises a number of system stability and reliability concerns to be addressed with the utility. The Department also requested a decommissioning plan in response to a promise by the Project to decommission.

#### GMP EAP Tariff No. 8621

This tariff filing seeks modifications to GMP's Electric Assistance Program and to expend program funds to engage a third party to evaluate efficiency and effectiveness. As modification to the EAP, GMP proposes benefit expansion, continuous arrears forgiveness, an additional arrears assistance element called EAP Power Partners, and balance monitoring and future adjustments. The Department filed a comment letter on November 14, 2016 finding the tariff just and reasonable and recommending Board approval.

#### Swanton Met Tower Penalty Investigation – Docket 8561

This case involves a meteorological tower constructed in Swanton, allegedly without prior Board approval. On November 9<sup>th</sup>, the Board issued an Order granting the Department's Motion for Partial Summary Judgment. The Order requires parties to propose a schedule for the penalty phase of the proceeding. The Department is conferring with other parties on a potential schedule, in hopes of filing a proposal this week. The Department anticipates a discovery period, followed by testimony (the Department does not plan to file testimony, but will brief a penalty recommendation; ANR wishes to file testimony), and likely a hearing.

#### 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. Mr. Blittersdorf is required to submit a supplemental affidavit that is fully responsive to the Board's previous inquiries by December 8<sup>th</sup>,

followed by a discovery period to commence in January. A site visit will be held on December 15<sup>th</sup>.

Otter Creek Solar, LLC dispute re interconnection with Green Mountain Power Corporation – Docket 8775

This case concerns a dispute among GMP and a solar net metering developer over GMP's treatment of a solar project for which the developer changed its location and GMP subsequently deemed the project's application withdrawn for reason of a "material change". On November 9<sup>th</sup>, the Board issued an Order granting Otter Creek's withdrawal of its petition and remanding the proceeding to a Hearing Officer "to investigate whether a generator that loses or forfeits site control of the property underlying a proposed project still has a viable project for purposes of maintaining its position in a utility's interconnection queue." A status conference will be held on December 1<sup>st</sup> to determine the next steps in this docket.

Otter Creek 4.99 MW Solar in Rutland – Docket 8797 -  
Otter Creek 2.2 MW Solar in Rutland – Docket 8798

These are two of five dockets in which PSD and ANR jointly moved for an order to show cause. As required by the Board, ANR, the Department, and AAFM (with support from DHP) filed a legal brief on November 28<sup>th</sup> addressing the Petitioner's assertion that Otter Creek has legal authority to clear the land, as well as the principal issue raised in the Motion for a Show Cause Order - whether the conduct of a third party landowner can constitute "site preparation" or "construction" within the meaning of Section 248(a)(2). Reply briefs are due on December 5<sup>th</sup>. The Department and the other agencies are discussing whether it is necessary to submit a reply.

VGS-Act 250 jurisdictional inquiry re: Vermont Gas's Addison Facilities-no docket

This request for a jurisdictional opinion was filed by Jim Dumont in August. Following a comment period, Mr. Dumont determined to stay his request for the jurisdictional opinion and, instead, request that the Board re-examine its own jurisdiction with respect to the Project's CPG. He committed to make this filing by November 14, but to date, no such filing has been made.

VGS-Town of Hinesburg condemnation-Docket 8643/ VSC Docket No. 2016-396

This parcel is in a park owned by the Town. The Board issued an order on September 13 granting the condemnation petition. The Resident Intervenors filed a Motion to Reconsider with the Board on September 27, together with a Notice of Appeal to the Supreme Court. On November 3, the Board issued an Order denying the Motion to Reconsider and advising parties that November 3 would be treated as the date of the Notice of Appeal. On November 4, VGS filed a Motion to Lift the Statutory Stay with the Vermont Supreme Court; the Department filed in support of the Motion. On November 14, the Resident Intervenors filed in opposition to the Motion to Lift and VGS submitted a reply to the opposition on November 18. The Resident Intervenors submitted their Docketing Statement on November 22. This is the last parcel needed for the Addison Expansion Project.

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 reviewed. On October 25, the Department submitted to GMP a series of questions

regarding the cost of the Project. Since that time, the parties have been negotiating a revised term sheet and discussing GMP's responses to our information requests. The schedule remains suspended.

#### DigSafe violation-Eustis Cable and Comcast-Docket 8854

In response to a June 2016 NOPV issued by the Department to Eustis regarding damage to Comcast's facilities, Eustis denied wrongdoing and requested a hearing. The Board scheduled a technical hearing for November 21, at which point Eustis determined that it would rather pay the fine for the disputed incident -\$250-than litigate the matter. The Department worked with both Eustis and Comcast to facilitate this settlement. Eustis advised the Board of its decision and the hearing was cancelled.

#### Public Records Requests

Requests continue to be made regarding various aspects of the construction, commissioning, and operation of the VGS Addison Expansion. These involve considerable staff time.

#### ***Telecommunications***

##### Comcast CPG Renewal - Docket 8301

The Board has already held a technical hearing and all post-hearing briefs have been filed. The Department expects that the Board will issue a final ruling on the docket in the near future as Comcast's current CPG expires at the end of the calendar year.

##### 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 and FairPoint have had numerous meetings and conversations to work towards an MOU to resolve contested issues in the docket. There has been agreement on all issues in the docket except for whether FairPoint should provide enhanced bill credits to its captive customers for extended outages. It appears that the disagreement over bill credits is likely to preclude any possible settlement in the docket. FairPoint filed its rebuttal testimony on November 23, and the Department is working on its rebuttal testimony, which is due on December 7. Technical hearings have been scheduled by the Board for December 15 and 16.

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

Verizon has had an application pending since October, 2015, 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 Town of Waterbury served discovery requests on the Department which are directed at the Department's RF expert. The Department is reviewing those requests, and is scheduled to provide responses by December 5. The Town has also worked with the Department to schedule a deposition of the Department's RF witness. That deposition was tentatively scheduled for November 30, but the Town and the

Department agreed to reschedule the deposition for January, 2017. Technical hearings are not expected to be held until March, 2017.

#### E-911 Investigations - Dockets 8842 and 8850

The Board has docketed two separate petitions that request an investigation into various issues related to the E-911 system.

Docket 8842 was opened after a petition was filed by Stephen Whitaker and Charles Larkin. The petition requests an investigation into several E-911 outages, but also requests that the Board review several other issues, including redesigns to the CoverageCo project overseen by the Connectivity Division, the Department's 10 year Telecommunications Plan, and battery backup for VoIP providers. They are also requesting that the Board appoint an independent advocate to review all of the issues presented in the docket. The Board requested that parties provide briefing on the issue of the Board's subject matter jurisdiction. At the request of FairPoint, the Board has suspended its briefing schedule and scheduled a prehearing conference for January 12 for parties to address various preliminary issues related to the docket and Board jurisdiction. The petition has received opposition from the E-911 Board, FairPoint, Comcast, and a trade group that represents VoIP providers. The Department intends to recommend that the Board dismiss the petition in its entirety for lack of jurisdiction.

Docket 8850 was initiated by a Department petition. The Department is requesting that the Board investigate the circumstances which led a disruption of traffic to the E-911 network on January 5, 2016. The Department is also requesting that the Board investigate whether there are any changes that should be made to FairPoint's network design to reduce the risk of future disruptions of traffic to the E-911 network. The petition has been docketed and the Board intends to schedule a prehearing conference in the near future.

#### Cellular Broadband

PSD staff determined that AT&T sells wireless broadband service with speeds of 5/2 Mbps and a 25 GB datacap bundled with telephone service for \$60 per month. Verizon sells a similar service without telephone service but with 10 GB datacap for \$60, and a 20 GB datacap for \$90.

Connectivity Initiative Grant Round II: Staff has been contacted by several internet service providers who have expressed intent to respond to the Request for Proposals for the second round of Connectivity Initiative grants for 2016. There is \$550,550 available in this round of grants. Connectivity staff answered questions and provided data on the process used to determine that an address is underserved. There are currently 29,836 addresses that are considered to be conditionally eligible for grant funding. A conditionally eligible location is any location that has not been verified to be served or unserved at 4/1 Mbps or may be eligible for service through another federal or state funded program. Written questions are due to the Department by December 14<sup>th</sup>, and proposals are due from respondents by December 29<sup>th</sup>.

Equipment Distribution Program: After some investigation by Connectivity staff, along with staff from the Vermont Center for Independent Living, it was determined that a participant in the EDP program had obtained a new computer through the state loan program, and had in turn, sold the equipment for profit. A letter was drafted and sent to the consumer, with mandate to return

the equipment or provide payment for the equal value. The consumer has agreed to pay restitution to the program.

#### Consumer contacts:

1. Irasburg: Connectivity staff is working with a consumer located in Irasburg, who hopes to establish internet service at his home. The consumer indicated that he has been working with VTel, but the service currently available to him through VTel does not meet his needs. Connectivity staff researched his address and discovered several alternative provider options. Staff reached out to the telecommunication companies for additional information on service availability and will continue to encourage communications between the consumer and providers.

#### 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

CoverageCo has brought the Whitingham resiliency site up once again. The CompactRan unit was replaced 2 weeks ago however the modem needed to be configured. The site is now operational.

CoverageCo has spent time in the field researching locations for new sites. Although all 95 site locations for Project 1 and 165 site locations for the EDA project are known, only 116 of 141 sites for the Incentive project have been identified. CoverageCo is looking for the remaining 25 locations for the Incentive project as well as their own funded sites.

The department has been working on a master database to drive the 3 projects to a completion and has the desire to create a sharing environment where updates by CoverageCo and the department can be seen real time on both sides. The department is working with DII to establish a SharePoint site where the appropriate data can be shared and updated. Early investigations have proved the solution works. DII has assigned a SharePoint site and the set up and trial will begin.

#### Telecom Site Project

The department is researching all available documents relating to land, building, or towers that are license by a state agency or sublicensed by the licensee. To date, the department has reviewed all license, lease and sublicenses provided by ANR and BGS and created a Tower database with all relevant details from them. There were many inconsistencies found that require follow-up with ANR and BGS. The first meeting was held with ANR last week, clearing up many of the issues and a dialogue with BGS has been started. Initial results show there is approximately \$245,000 per year in revenues to the state generated from licenses and leases and final number is not available for sublicenses yet but it appears to be on the order of \$500,000 per year.

#### ***CAPI***

Report period for November 20 to November 26, 2016

### CASES OF THE WEEK

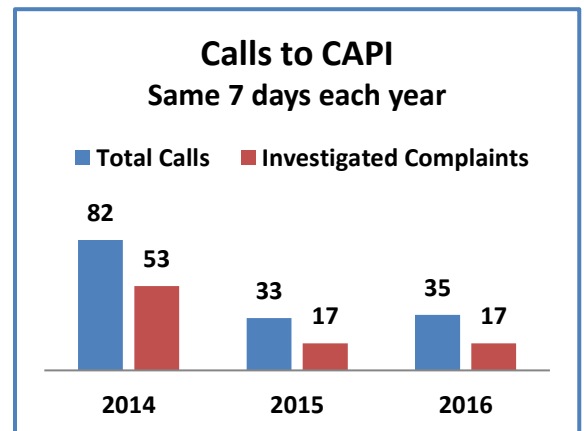
Net metering – two calls about the new law/rule.

CAPI received a call from a new member of a School Board with questions regarding responsibility for internet lines, maintenance and whether a school system is required by the state of Vermont to have broadband service.

### POST CPG COMPLAINTS

1 complaint regarding turbine noise from NM1646 in Vergennes

1 concern from a consumer in Johnson regarding NM0018. Consumer is concerned about a conflict of interest since the beneficiary of the generation is the school and the landowner is the school board chair.










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**CONFIDENTIAL AND PRIVILEGED**  
**MEMORANDUM**

TO: Governor Peter Shumlin   
FROM: Rebecca Holcombe, Secretary, Agency of Education  
SUBJECT: AOE Weekly Report  
DATE: December 2, 2016

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**HMH and the SLDS contract**

Good news...After confronting what was looking like a breach of contract on our State Longitudinal Data System, our team spent 3 ½ hours with the vendor (HMH) just before Thanksgiving, and got some concrete commitments from them with respect to deliverables and deadlines. We are cautiously optimistic that they can and will deliver what we need. They are committing additional people, including developers, to the project who will be on-site 2 to 3 days a week. They appear to have put a new lead on the project. They will be here for a 2-day working meeting in early December; and work on technical specs is continuing in the meantime. HMH will not be able to make up for all the time they lost, but the leadership is making this project a priority for the first time. Fingers crossed.

**Next Round of Preschool Development Grant**

The Feds just announced the next round of funding of the Preschool Development Grant, and the Congressional Delegation is using this to emphasize the importance of early learning. Some highlights from Vermont's implementation below:

Participation numbers (children) are as follows:

Year 2 442

Year 3 713

Year 4 727

The programs all include full time preschool (based on local school day and school year), curriculum aligned to Vermont's Early Learning Standards, a fully licensed teacher, comprehensive services, healthy meals, daily physical activity, inclusion of students with disabilities, a staff ratio of no more than 10:1, and high quality professional development.

A few notable examples from some recipients:

1. From Joan Cavallo, Superintendent of Franklin Central Supervisory Union : *"The Preschool Development Grant allowed St. Albans City School to leverage our existing infrastructure (building, universal meals and buses) to support 4 year olds, that traditionally would not have access to preschool because parents lack reliable transportation, with a quality full day program. As we enter our second year of the Preschool Development Grant we are seeing more of those students kindergarten ready at the start of their kindergarten year."*

2. In Chittenden Central there has been incredible collaboration of community/state resources that support Little One's University include partnerships with UVM Medical Center, the Howard Center, United Way, the Caring Collaborative, Essex Pediatrics, CCSU Nutrition Services, Burlington District Office Department of Health (includes WIC, Maternal Child Health, and Office of Oral Health), Children's Integrated Services, Agency of Human Services, Reach Up. This collaborative effort has taken years to establish, maintain and sustain. PDEG is supporting this effort. LOU has seen significant change due to PDEG financial support and community collaborations. Direct results include increased in lead and supporting teacher salaries, provided classroom bathroom access, increased STARS quality rating, supported NAEYC accreditation, decreased in childcare licensing violations, provided parent education and professional development opportunities, connected children and families with medical and dental homes, and moved toward financial stability. CCSU, through its food service, transports daily hot meals to LOU to ensure children receive consistent balanced meals.

### **Second census count**

The second census count, which should capture children whose enrollments were delayed by the back up in fingerprinting at CDD, is underway and progressing on schedule. We have received assurances from key legislators that they will move a bill that accepts the second count in place of the official count in statute. In addition, we notified key committees that any reports which rely on PK enrollment or total enrollment data will be delayed. This should resolve itself when the legislature returns. We have not received an update from CDD on their fingerprinting progress, but assume students will be enrolled in time to make the count.

### **Changes to laws related to background supported fingerprint checks**

We have been trying to work with CDD to develop a joint agenda for requests to 16 VSA 255. We have not yet been able to come to agreement on language that reduces duplication and appropriately assigns risk, but are continuing to work on it. If all else fails, we will have to ask the new administration for direction.

### **Forfeiture of Title 1 dollars in Orleans Southwest**

This SU will have to forfeit \$173,216.10 of federal title dollars that it did not spend. This is a pretty large sum for them to decide to forfeit, which suggest some management challenges in the SU. I mention it because it is a sign of system risk in a place that has pretty toxic politics at present and one of the most complex and convoluted governance systems in the state. I don't know what happened, but I do know their children needed these resources. This is one of the regions with the fastest rising incidence of emotional disturbance in the state, yet it was unable to spend almost \$200k earmarked for high need children. When systems are starved, then given too many complex tasks, they run the risk of failure.

## **ESSA**

The feds just pushed back the submission date until April, which means schools won't know if the accountability plan is approved prior to the close of the school year. The State ESSA plan is drafted and about to go out to public comment in the next few weeks.

## **Meetings**

Met with Hal Cohen on PK, met with Dave Sharpe on legislative priorities, met with the transition team on the Dec. 1 tax rate letter and also for a high level overview of ESSA, Career and Technical Education, Act 77, the State Longitudinal Data System and Act 46.

## **Child Nutrition**

It looks like we may need to need to ask the new administration for extra staff in our child nutrition division. Their revenues have decreased, the USDA regulatory demands have increased, the length of the audit cycle has shortened, and we have dramatically increased the number of child and adult cares that we support and must audit. We will wait until the audit report returns, but this is a high risk division at present. Inadequate staffing jeopardizes our ability to draw down resources. We had to forgo a recent Farm to School initiative, as we just don't have staff to support it.

## **Media Contacts:**

**Terri Hallenbeck, Seven Days:** Terri asked if Secretary Holcombe is reapplying for her position (yes).

**Howard Weiss-Tisman, VPR:** Howard asked for the draft minutes from the November State Board of Education meeting, the dates of the public meetings for the proposed independent school rules, and for the handout that Donna Russo-Savage provided to the State Board. Haley sent him all of the information.

**Tiffany Pache, VT Digger:** Tiffany emailed requesting information about the money for the District Management Council contract for Special Education services review. She later asked when the tax letter would come out from the tax department.

**Jess Aloe, Burlington Free Press:** Jess asked to talk to someone about the Spectrum partnership with the Burlington School District. She spoke with Bill Talbott.

**Greg, County Courier:** Greg asked for more information about the Special Education services reviews, including how supervisory unions and school districts were chosen.

**Nora Doyle-Burr, Valley News:** Nora asked for the applications for the Special Education services reviews for Hartford School District and Orange Southwest Supervisory Union. Bill provided them.

**Liam Connors, VPR:** Liam asked to speak with someone about the Special Education services reviews. Bill Talbott talked to him.

**Robert Wolfe, Valley News:** Robert asked if the AOE has heard from the Rivendell School Board about whether it's applying its founding articles of agreement correctly in relation to funding apportionment among the member towns. Haley forwarded the question to Molly Bachman, General Counsel, for more information.

**Matt Hongoltz-Hetling, Valley News:** Matt asked for any kind of regular summary on the use of seclusion and restraint in Vermont schools. Haley forwarded the request to Judy Cutler. He also asked for some context and the state-wide picture of “alternative programs” like Hartford’s Regional Alternative Program, which has about 30 kids with special behavioral needs. He wants to know how many of these programs exist in the state, if that number is growing or shrinking, etc. Haley forwarded these questions to Cindy Moran, State Special Education Director.

