



February 24, 2016

Honorable Christopher Bray, Chair
Senate Natural Resources and Energy Committee
Vermont State House
115 State Street
Montpelier, VT 05633

Dear Chairperson Bray:

I am writing on behalf of the 246 member municipalities of VLCT to comment on draft 4.1 of S.230, Your committee has been attentive to many of the concerns that have been raised by local officials, regional planning commission directors, and citizens about the problems with the current Public Service Board (PSB) process for approving the siting of renewable energy facilities.

We are encouraged that the PSB took into account the Bennington land use plan in denying the Chelsea Solar project in that town and we are further encouraged that the board is considering updating its rules pertaining to siting of renewable energy facilities (Rule 5.1, Pertaining To Construction and Operation of Net-metering Systems). Neither of these actions obviates the need for legislation to direct PSB practices when deciding whether or not to permit energy generation projects.

We believe that the proposed amendments to the goal to “encourage the efficient use of energy and development of energy resources” are more dogmatic than they need to be. The bill could simply call on plans to encourage the efficient use of energy and development of energy resources in a manner compatible with the State Energy Plan.

We note that the statement in Section 5 regarding the change in Section 4 that changes the word “may” to “shall” is not merely a clarification and is inaccurate.

The committee may want to change the words “compliance” and “consistent” where they appear in Section 7, 8, 9 and 10 to “compatibility” or “compatible.” As we testified on numerous occasions, the state plan will express a more general public interest than will a regional or municipal plan. It seems that the word “compatible,” which means able to exist or occur together in harmonious or agreeable combination (Dictionary.com), would anticipate and accommodate some of those legitimate differences as well as make it worth a municipality’s while to enact a plan that is individualized to its community – the essence of municipal planning. “Consistent” is defined as constantly adhering to the same principles, course, form, etc., and “compliance” means a tendency to yield readily to others, especially in a weak and subservient way (also Dictionary.com).

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Fund, Inc.

At Section 9, 30 V.S.A. § 202(d) (1), we urge you to amend the parties consulted with as follows:

- (B) Vermont municipal utilities, local legislative bodies and planning commissions;
- (I) the Public Service Board, which is hereby authorized to offer its opinion;
- (M) regional planning commissions and regional development corporations.

Thank you for addressing a requirement that the PSB give substantial deference to the conservation measures and specific recommendations contained in a duly adopted regional plan that has received a certificate of energy ~~compliance~~ compatibility, and for defining substantial deference. We urge you to accord the same deference to recommendations of the local legislative body and planning commission.

We endorse the language at Section 12 regarding preferred sites for energy generation, and at Section 18, the party status by right for regional commissions, the Agency of Agriculture, Food and Markets, and adjacent municipalities if the facility is located within 500 feet of the boundary of that adjacent municipality.

We are concerned about Section 18 that provides for the board to determine if a proceeding is appropriate for mediation, direct parties to engage in mediation, jointly choose a mediator and share the costs of the mediator. Mediation should be voluntary, and not every situation is ripe for mediation. Furthermore, a large renewable energy company is likely to have far more resources to pay for a mediator than a small municipality or a group of private citizens.

Thank you for the opportunity to comment on this redraft.

Sincerely,

A handwritten signature in cursive script that reads "Karen B. Horn".

Karen Horn
Director, Public Policy and Advocacy