

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7156

Petition of UPC Vermont Wind, LLC,
for a Certificate of Public Good, pursuant to
30 V.S.A. §248, authorizing the construction
and operation of a 52 MW wind electric generation
facility, consisting of 26 wind turbines, and
associated transmission and interconnection
facilities, in Sheffield and Sutton, Vermont

PREFILED TESTIMONY OF
ROBERT IDE

ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE

July 28, 2006

Summary: The purpose of Mr. Ide's testimony is to present the Department's overall recommendations with respect to the petitioner's request for a Certificate of Public Good ("CPG") under 30 V.S.A. § 248, including specific recommendations on a number of criteria found in 30 V.S.A. § 248(b). In places, he will be incorporating or relying on the work and testimony of other Department witnesses

Prefiled Testimony
of
Robert Ide

1 Q. Please state your name and position.

2 A. My name is Robert Ide. I am employed by the Vermont Department of Public Service
3 ("DPS" or "Department") as Director for Energy Efficiency.

4 Q. Briefly, can you describe your job duties as the Director for Energy Efficiency?

5 A. Yes. I am responsible for policy development and public advocacy on all matters before
6 the Public Service Board that concern energy efficiency and renewable energy sources.

7 Q. Do your job responsibilities also entail oversight of the location of commercial wind
8 generation facilities?

9 A. Yes. I have served as the Department's representative to the Agency of Natural Resources
10 policy development process concerning the siting of wind turbines on state land; assigned staff to
11 the Governor's Commission on Wind Energy Regulatory Policy; and I have been assigned the
12 responsibility of overseeing the Department's involvement in section 248 activities as they relate
13 to wind generators.

14 Q. Please state your background and experience relative to public policy development and

1 community involvement.

2 A. Before joining the Department in March of 2003, I served 10 years as a member of the
3 Vermont State Senate representing the Caledonia District. As a member of the legislature, I was
4 also a board member of the Northeastern Vermont Development Association from January, 1993
5 through March of 2003.

6 Q. Have you testified before this Board previously?

7 A Yes, I testified on behalf of the Department in Docket 6911, which involved an
8 application by EMDC, LLC for a Certificate of Public Good ("CPG") to construct and operate a
9 6 MW wind electric generation facility on the summit of East Mountain.

10 Q. What is the purpose of your testimony?

11 A. I will present the Department's overall recommendations with respect to the petitioner's
12 request for a Certificate of Public Good ("CPG") under 30 V.S.A. § 248, including specific
13 recommendations on a number of criteria found in 30 V.S.A. § 248(b). In places, I will be
14 incorporating or relying on the work and testimony of three additional Department witnesses,
15 David Lamont, Steve Litkovitz, and Mark Kane. I should note that the Department's
16 recommendations in this proceeding should be considered preliminary only at this time. As the
17 Board is aware, to date only the petitioner has filed testimony in this proceeding. All other
18 parties will be filing their testimony concurrent with the Department on July 24, 2006.

1 Accordingly, the Department believes that it should be allowed an opportunity to review the
2 other parties' filings before it makes a final recommendation in this proceeding.

3 Q. Which § 248 criteria will the Department be submitting recommendations on?

4 A. The Department will be submitting recommendations on the following criteria under 30
5 V.S.A. § 248(b):

6 (1) whether the proposed project will unduly interfere with the orderly development of the
7 region with due consideration having been given to the recommendations of the municipal and
8 regional planning commissions, the recommendations of the municipal legislative bodies, and the
9 land conservation measures contained in the plan of any affected municipality;

10 (2) whether the proposed project is required to meet the need for present and future demand
11 for service which could not otherwise be provided in a more cost effective manner through
12 energy conservation programs and measures and energy-efficiency and load management
13 measures, including but not limited to those developed pursuant to the provisions of sections
14 209(d), 218c, and 218(b) of Title 30;

15 (3) whether the proposed project will adversely affect system stability and reliability;

16 (4) whether the proposed project will result in an economic benefit to the state and its
17 residents;

18 (5) whether the proposed project will have an undue adverse effect on aesthetics, historic
19 sites, air and water purity, the natural environment and the public health and safety, with due

1 consideration having been given to the criteria specified in 10 V.S.A. § 1424a(d) and §
2 6086(a)(1) through (8) and (9)(K);¹

3 (6) whether the proposed project is consistent with the principles for resource selection
4 expressed in the petitioner's approved least cost integrated plan;

5 (7) whether the proposed project is in compliance with the electric energy plan approved by
6 the Department under section 202 of Title 30, or that there exists good cause to permit the
7 proposed action; and,

8 (10) whether the proposed project can be served economically by existing or planned
9 transmission facilities without undue adverse effect on Vermont utilities or customers.

10 **30 V.S.A. § 248(b)(1)**

11 Q. Do you believe the project will unduly interfere with the orderly development of the
12 region?

13 A. I do not believe that the petitioner has to date submitted adequate testimony for the Board
14 to determine that there will not be such an impact.

15 Q. Have recommendations been provided by the Sheffield and/or Sutton Planning

¹ At this time, the Department's comments will be limited to municipal services, aesthetics and public investment. The Department anticipates that the Agency of Natural Resources will present the state's position on the other natural resource criteria as well as on historic resources.

1 Commissions?

2 A. By letter dated October 19, 2005, the Town of Sutton Planning Board filed a letter with
3 the Board opposing the proposed project. A copy is attached hereto as Exhibit DPS-RI-1.
4 Additionally, the Sutton Select Board and Planning Board jointly wrote to the Board by letter
5 dated March 24, 2006 informing the Board of the town's March 7, 2006 vote opposing the
6 project 120-23. A copy is attached hereto as Exhibit DPS-RI-2. I am not yet aware of any formal
7 recommendations from the Sheffield planning commission. However, as I mentioned earlier,
8 testimony may be forthcoming from the towns concurrent with the Department's filing and
9 additional recommendations might be contained in either or both towns' testimony.

10 Q. What about recommendations from the Sheffield and Sutton legislative bodies?

11 A. The town of Sheffield has not enacted zoning laws, so there is no local community
12 standard that addresses or otherwise prohibits the proposed windfarm. However, the town has
13 reached an agreement with UPC whereby UPC will make certain payments to Sheffield in
14 exchange for the town cooperating in UPC's efforts at obtaining approval for the proposed
15 project.

16 Conversely, in the town of Sutton, the town's plan strongly discourages the construction
17 of commercial wind generation facilities at "elevations exceeding 2,000 feet."² Additionally,
18 Sutton, at its March Town Meeting, took an action that expressed the town's opposition to the

² Exh. DPS-RI-3 (excerpt from Sutton Town Plan) at 26.

1 proposed project by a vote of 120-23. Exh. DPS-RI-2.

2 Q. Please describe the regional plan?³

3 A. The plan presents an overall vision of preservation of the unique character of the
4 Northeast Kingdom through maintenance of a way of life built around village centers, surrounded
5 by open lands of working farms and forest land.⁴ However, at the same time, the plan recognizes
6 that development pressures are growing and that change is inevitable. The plan, therefore, sets
7 forth general guidelines and recommendations for appropriately directing and assessing
8 development proposals to help maintain the region's environment and rural character as well as
9 the traditions of the Northeast Kingdom.⁵

10 The plan itself is divided into three volumes. Volume I consists of Regional Goals and
11 Strategies and presents the "goals, policies and objectives for the region" and can be used as a
12 quick reference guide to these goals and strategies. Volume II, entitled Regional Analysis, is a
13 "presentation of existing conditions and background information intended to give readers a
14 picture of life in the Northeast Kingdom." Volume III is the Regional Transportation Plan for the
15 Northeast Kingdom. Volumes I and II are each divided into chapters that address specific

³ Regional Plan for the Northeast Kingdom, adopted by the Northeastern Vermont Development Association on June 29, 2006 for effect August 4, 2006. Excerpts are attached to this testimony as Exhibit DPS-RI-4.

⁴ Exh. DPS-RI-4 at Vol. I, p. 2.

⁵ *Id.* at Vol. I, p. 1-2.

1 elements of concern such as housing, land use and energy, while Volume III deals exclusively
2 with transportation issues.⁶

3 The purpose of the regional plan is to provide guidance for managing change and an
4 “informational framework within which municipalities, businesses, individuals, and other
5 organizations can make decisions regarding growth and development.” The three principal uses
6 of the plan are: (1) as guidance in regional and local planning decision-making; (2) as a general
7 information source; and, (3) to provide a basis for state level review processes.⁷

8 Q. Is the proposed project inconsistent with any provisions of the plan?

9 A. Yes, I believe it is. First, the project is not consistent with the land use provisions of the
10 plan. The plan recognizes five broad categories of current land use: (1) Regional Urban Centers;
11 (2) Service Centers; (3) Rural Villages; (4) Rural Areas; and, (5) Industrial Parks.⁸ According to
12 an accompanying map at page 13 of Volume II, the site of the proposed project lies within a
13 Rural Area. The plan notes that these areas, “receive very little commercial or industrial
14 development unless it occurs in an established industrial park, in an area specifically
15 designated in the local zoning bylaw, or occurs in an appropriate scale for its rural

⁶ *Id.* at Vol. I, p. 1.

⁷ *Id.*

⁸ *Id.* at Vol. II, p. 12.

1 surroundings.”⁹ Further, the plan states that the categories, while general in nature, can be used
2 to help guide development so that it is in keeping with the character of the area in question,¹⁰ and
3 adds that traditional development patterns should be maintained and that new development
4 should be compatible with existing land uses and local plans.¹¹

5 In the instant case, the proposed project is to be constructed in a Rural Area on an
6 undeveloped site that is proximate to several nearby residences as well as the King George
7 School. Given the previously undeveloped nature of the site and the nearby residences and
8 school structures, and the large size of the proposed project, the turbines will be out of scale and
9 out of character with the surrounding area.¹² Therefore, I believe the proposal is inconsistent
10 with the land use provisions of the regional plan.

11 Second, the plan describes an energy strategy in Chapter 2 of Volume I that is at odds
12 with the proposed windfarm. While the strategy recognizes that the region is responsible for
13 developing its share of energy production, storage and distribution, it seeks to implement this
14 responsibility in ways that do not embrace a commercial wind project of the size that UPC

⁹ *Id.* at Vol. II, p. 15-16.

¹⁰ *Id.* at Vol. II, p.12.

¹¹ *Id.* at Vol. II, p. 17.

¹² In Docket 6911, the DPS opined that a proposed four-turbine project on the summit of East Mountain was not inconsistent with similar language in the previous regional plan. However, in reaching its conclusion the Department noted the small size of the project, the previously impacted nature of the site due to its former use as a Cold War radar facility, and the site’s isolation from any nearby residences.

1 proposes. For example, specific goals are maximizing net-metering, encouraging conservation
2 and efficiency, and limiting negative aesthetic impacts of power generation facilities. Strategies
3 to meet these goals include re-establishment of energy contracts with Hydro-Quebec and
4 Vermont Yankee, possible short-term contracts with hydro facilities on the Connecticut River,
5 promotion of transmission upgrades, encouraging municipalities to reduce consumption through
6 efficiency and conservation, support and upgrade of existing hydro facilities, promotion of wood-
7 based generation consistent with the wood-related industries in the region, and development of
8 alternative energy sources such as small wind and solar.¹³

9 In short, the plan emphasizes renewed contracts with existing resources, reduction in
10 demand through conservation and efficiency, and use of alternative generation sources such as
11 small wind and solar. Large scale projects such as UPC's proposal are inconsistent with the
12 strategies listed in the plan.

13 Q. Does the plan speak about commercial wind-generation facilities on any specific level?

14 A. Yes. The plan gives a description of commercial wind generation and a number of
15 related issues on pages 34-35 of Volume II. However, it does not specifically support or oppose
16 such projects in that discussion. The plan also notes that commercial wind generation deserves
17 consideration as a potential resource for meeting current and future needs in the Northeast
18 Kingdom but largely defers to the Public Service Board and the section 248 process, though it

¹³ Exh. DPS-RI-4 at Vol. I, p. 5-6 and Vol. II at p. 40-41.

1 does ask that the Board consider a number of criteria that would not otherwise necessarily be
2 taken into account in a 248 proceeding. Specifically:

- 3 1) The consistency of the proposal with not only the region's plan and the host
4 town's plan and zoning bylaws, but also the plans and bylaws of other towns
5 which may be impacted by the proposed project;
- 6 2) A weighing of the potential benefits as well as negative impacts on not only the
7 host town but other impacted towns, including a possible outline of tax payment
8 benefits to impacted towns;
- 9 3) Applicants must include a comprehensive de-commissioning plan when filing for
10 a Certificate of Public Good;¹⁴
- 11 4) Appearance and operation of facilities should be weighed as an aspect to change
12 the essential character of the area;
- 13 5) Proposed turbines should be sited to minimize the visual impacts.¹⁵

14 Interestingly, NVDA filed a letter with the Board in response to UPC's prefiled testimony
15 wherein UPC notes that the earlier regional plan had expired and a new plan had not yet been
16 adopted. NVDA explained that the delay in adopting the new plan was directly related to the
17 issue of large-scale commercial wind facilities. The initial draft plan advanced a positive
18 position on wind projects. Following additional input from the public, board members and
19 further research by NVDA staff, NVDA reassessed the original proposed position.¹⁶ Subsequent
20 to that time, the plan that was ultimately adopted took the far more neutral position on

¹⁴ The petitioner has not yet provided a detailed plan for decommissioning.

¹⁵ Exh. DPS-RI-4 at Vol. II, p. 39.

¹⁶ A copy of the letter is attached hereto as Exh. DPS-RI-5.

1 commercial wind facilities that is described above.

2 Overall, I would characterize the plan as acknowledging the potential for commercial
3 wind projects, but expressing a clear preference for other forms of energy production and energy
4 conservation as a means for achieving its stated goals. This, in conjunction with the project's
5 inconsistencies associated with the plan's land use provisions, leads me to conclude that the
6 proposed project is not consistent with the plan.

7 Q. Do you have any additional comments related to the orderly development of the region?

8 A. Yes. The establishment of the King George School in recent years follows a long and
9 orderly pattern of economic development in the Northeast Kingdom. The area is ripe with
10 private education facilities built upon the business model of private tuition for educational
11 purposes. The following institutions are examples of this model: Lyndon Institute; St.
12 Johnsbury Academy; The Riverside Day School; St. Paul's Catholic School; Sterling College and
13 now the King George School. In assessing the founding dates of these institutions, one finds
14 both very old, and very young institutions.

15 The petitioner has not to my satisfaction submitted testimony to this date that answers the
16 concerns of the King George School. According to Karen Fitzhugh, the school currently
17 employs 47 full-time staff and three part-time staff. The annual net salary paid into the
18 surrounding communities is \$1.2 million and the school spends approximately \$750,000 annually
19 with local vendors in Sutton, Sheffield, Lyndon, Saint Johnsbury, Barton and other surrounding

1 towns. Ms. Fitzhugh has expressed reservations about the school's ability to remain open if the
2 turbines are constructed.¹⁷ A payroll of the size of this school's is a very significant economic
3 generator for northern Caledonia County. The risks raised by the King George School are
4 unanswered at this time, but the risks of the school's demise, in my opinion, could outweigh the
5 benefits of the proposed wind generation project.¹⁸

6 In summary, I do not believe the evidence available to the Board as of the writing of this
7 testimony is sufficient to support a finding of no unreasonable interference with orderly
8 development in the region.

9
10 **30 V.S.A. § 248(b)(2)**

11 Q. Does the proposed project meet the need for present and future demand for service, which
12 could not otherwise be provided in a more cost effective manner through energy conservation
13 programs and measures and energy-efficiency and load management measures?

14 A. The DPS believes the proposed project meets this criterion. I respectfully refer the Board
15 to the testimony of Department witness David Lamont for a full explanation of the DPS' position
16 on this criterion.

¹⁷ Docket 7156, Public Hearing, tr. 4/25/06 at 66-68 (Fitzhugh).

¹⁸ The Department notes that the expert aesthetic witness put forth by the petitioner failed to include any simulations relative to the King George School.

1 **30 V.S.A. § 248(b)(3)**

2 Q. Will the project have an adverse effect on system stability and reliability?

3 A. At this time, the Department does not believe the petitioner has submitted sufficient
4 evidence to support a finding by the Board that there will be no such impact. I respectfully refer
5 the Board to the testimony of Mr. Litkovitz for a full explanation of the DPS' position on this
6 criterion.

7 **30 V.S.A. § 248(b)(4)**

8 Q. Will the proposed project provide an overall economic benefit to the state?

9 A. I do not believe that the petitioner has yet submitted enough testimony for the Board to
10 make the required finding. First, as detailed in the testimony of DPS witness David Lamont, it is
11 not yet possible to sufficiently gauge the economic benefits to the state associated with the
12 energy that will be produced by the project. While it is safe to assume that these contracts will
13 yield some economic benefit, the specific purchase terms of the potential contracts with
14 Washington Electric Cooperative and Vermont Electric Cooperative are not yet known.
15 Additionally, there is a significant amount of capacity that is not subject to any contract or
16 memorandum of understanding with any Vermont utilities, meaning that economic benefits that
17 may be associated with this capacity may flow outside of Vermont.

18 Second, as discussed earlier in this testimony, the King George School is a significant
19 economic driver to the local economy and UPC has not yet addressed the potential risks to the

1 school or accounted for the economic impacts should the school cease operations.

2 While the proposed project will undoubtedly result in economic benefits in terms of taxes
3 paid to the state and the host towns of Sutton and Sheffield, and there will be some benefits
4 associated with both short and long term employment opportunities and payments to local
5 vendors, UPC has not sufficiently analyzed the net results in terms of a benefit or cost should the
6 project be built and the school be closed.¹⁹

7 In summary, I do not believe the petitioner has yet submitted sufficient testimony for the
8 Board to conclude that the net economic impact of the proposed project, should it be built, would
9 be positive rather than negative.

10 **30 V.S.A. § 248(b)(5)**

11 Q. Will the project have an undue adverse effect on aesthetics, historic sites, air and water
12 purity, the natural environment and the public health and safety, with due consideration being
13 given to the criteria specified in 10 V.S.A. § 1424a(d) and § 6086(a)(1) through (8) and (9)(K) ?

14 A. I will address a number of specific issues under criterion 5 based on the criteria
15 incorporated from Act 250.

¹⁹ It is also possible that there will be a negative economic component associated with the project's impact on Crystal Lake State Park as described in the testimony of DPS witness Mark Kane.

Municipal Services

[10 V.S.A. §§ 6086(a)7]

Q. Do you have any concerns about municipal services?

A. Yes. UPC submitted letters to a number of municipal and regional authorities seeking input on their ability to continue to provide adequate services to the community in the event proposed windfarm is built.²⁰ To date, UPC has apparently only received responses from two of the involved entities. Until appropriate responses are received from each entity and submitted into the record for review, I do not believe the Board can make a positive finding on this issue.

Scenic or Natural Beauty, Aesthetics, and

Rare and Irreplaceable Natural Areas

[10 V.S.A. §§ 1424a(d)(7) through (9) and § 6086(a)(8)]

Q. Do you have any concerns about the project's impacts on the aesthetics of the surrounding environment?

A. Mr. Kane responds at length to the question of aesthetics and concludes that the project will have an undue adverse impact on the surrounding visual environment.

Development Affecting Public Investments

[10 V.S.A. 6086(a)(9)(K)]

Q. Do you have any concerns about the project's impact on public investments?

A. Yes. Based on the testimony of DPS witness Mark Kane, I am concerned that the project may unreasonably interfere with the public's use and enjoyment of Crystal Lake State Park.

²⁰ See Exhs. UPC-CRV-25 and 26.

1 **30 V.S.A. § 248(b)(6)**

2 Q. Is the proposed project consistent with the principles for resource selection expressed in
3 the petitioner's approved least cost integrated plan?

4 A. In this instance, the petitioner is a merchant plant as opposed to a regulated utility
5 providing distribution service. As a result, it is my understanding that UPC is not required to
6 have an approved least cost integrated resource plan. Accordingly, I do not believe that an
7 affirmative finding is necessary under this criterion.

8 **30 V.S.A. § 248(b)(7)**

9 Q. Is the project in compliance with the electric energy plan approved by the Department
10 under section 202 of Title 30, or if not, is there good cause to permit the proposed project
11 anyway?

12 A. The DPS believes the proposed project meets this criterion. I respectfully refer the Board
13 to the testimony of Department witness David Lamont for explanation of the DPS' position on
14 this criteria.

15 **30 V.S.A. § 248(b)(10)**

16 A. Can the proposed project be served economically by existing or planned transmission
17 facilities without undue adverse effect on Vermont utilities or customers?

18 A. Similar to criteria number 3 on system reliability and stability, the Department does not

1 believe the petitioner has yet submitted sufficient evidence to support a finding by the Board that
2 there will be no such impact. I respectfully refer the Board to the testimony of Mr. Litkovitz for
3 a full explanation of the DPS' position on this criterion.

4 Q. Does the Department support issuing a Certificate of Public Good for this project under
5 30 V.S.A. § 248?

6 A. As of the filing of this testimony, the Department does not support the issuance of a CPG
7 for this project because there is insufficient evidence for the Board to make necessary findings
8 under 30 V.S.A. §§ 248(b)(1) (orderly development); (b)(3) (system stability and reliability);
9 (b)(4) (economic benefit); (b)(5) (with respect to municipal services); and (b)(10) (existing or
10 planned transmission facilities without undue impact). Additionally, as stated by Mr. Kane, in
11 his professional opinion the project will have an undue, adverse impact on the surrounding
12 natural environment and therefore fails under 30 V.S.A. § 248(b)(5).

13 Q. Are there any other issues that you wish to address at this time?

14 A. Yes, in the event the Board ultimately decides to grant a CPG to the petitioner, it should
15 impose conditions related to the decommissioning of the project. Specifically, the Board should
16 require UPC to establish and maintain an adequate decommissioning fund to insure that the site
17 will be returned to its natural state at the time the generation plant ceases to be used for
18 commercial production. I believe that UPC's description of what should be done to accomplish

1 decommissioning is reasonable generally. However, the petitioner has submitted no detail
2 regarding the cost of such decommissioning or proposed a specific mechanism for funding the
3 work. Additionally, it appears that UPC proposes to finance the fund over time through revenues
4 generated from the project's operation. The Department believes this approach is insufficient
5 and that a decommissioning fund should be fully financed prior to any significant construction
6 activities taking place. As part of this condition, I recommend the Board direct the petitioner to
7 provide a detailed study on the costs of removing the turbines, all related infrastructure, and
8 returning the summit area to a more natural condition.

9 Additionally, any conditions the Board imposes on the project that implicate the land
10 rights of UPC's lessors and any potential successors in interest to those land rights should be
11 required to be included in all lease agreements between UPC and its lessor/landlords and the
12 leases should be required to be recorded in the relevant municipal land records.

13 Q. Does this conclude your direct prefled testimony?

14 A. It does.