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## THE PSB'S CERTIFICATE OF PUBLIC GOOD GUIDE TO ADVOCACY

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### What is a Certificate of Public Good?

Section 248 of Title 30 in Vermont law requires companies seeking to construct electric transmission and electric generation facilities in Vermont to first gain approval from the Public Service Board. This approval is called a Certificate of Public Good, and includes specific environmental criteria incorporated from Act 250, as well as need, reliability, economic benefit and other environmental factors.

### Who is the Public Service Board?

The Public Service Board (PSB, or Board) is a quasi-judicial agency that regulates public (and some private) utility providers, including electric, gas, telephone, water and cable. The Board has a full-time Chairman and two part-time Members appointed by the Governor, serving staggered six-year terms. Because this Board is quasi-judicial, it acts similarly to a court in its proceedings, and is staffed by attorneys and other financial, environmental, engineering and policy experts. The Board can also promulgate rules on utility matters, and its decisions are appealed to the Vermont Supreme Court. The current Public Service Board members are:

- James Volz, Chairman
- David C. Coen, Board Member
- John D. Burke, Board Member

### How can I participate?

There are several ways to participate in the Section 248 process.

1. **Provide Public Comment:** Members of the public may submit public comment to the Board at any time during the proceedings, which become part of the case file. Public Comments may be submitted either in-person, by speaking at public hearings, or in writing to:
  - **E-Mail:** [clerk@psb.state.vt.us](mailto:clerk@psb.state.vt.us)
  - **Mail:** Vermont Public Service Board  
112 State Street, Drawer 20  
Montpelier, VT 05620-2701

When submitting public comments in writing, please be sure to reference the Docket number for the case you are commenting on.

2. **Become an "Interested Person":** Individuals and organizations can request that they be added to the Board's mailing list as an "interested person" by contacting the Board directly. Interested Persons will receive notices and orders that the Board issues related to the case, but not other documents, such as filings made by parties in the proceedings.

### **THE SECTION 248 CPG PROCESS:**

#### **STEP 1: PETITION**

The process begins with the utility or individual (referred to as "the **PETITIONER**") files a petition for a certificate of public good, with supporting testimony and exhibits. The Board then accepts the petition and assigns a **DOCKET NUMBER** to the case.

#### **STEP 2: PREHEARING CONFERENCE**

A prehearing conference is held where the Board will identify potential parties, issues necessary to resolve the case, and a schedule, which includes a site visit, a public hearing and important case deadlines. The Board issues a **PREHEARING CONFERENCE MEMORANDUM**, summarizing the items above, and includes a "**SERVICE LIST**" of parties and interested persons in the case.

#### **STEP 3: SITE VISIT**

The Board will conduct a site visit to evaluate the existing conditions at the proposed project location, how it will be altered by the project, and other potential impacts or relevant issues to assist the Board in their evaluation of the application.

#### **STEP 4: PUBLIC HEARING**

A public hearing in at least one county involving the project is required to allow the Board to hear comments from the general public. **PUBLIC COMMENTS ARE IMPORTANT** - they become part of the case file and raise issues and perspectives for the Board to consider and ask parties to provide evidence on.

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3. **Become an “Intervenor”:** To become a formal party to the case, members of the public and organizations must apply to the Board, meet specific criteria (such as landowners, environmental organizations, public interest groups, etc.), and be granted party status by the Board. Intervenor has the same rights and obligations as other formal parties to the case, including providing testimony, participation in hearings, discovery, and cross-examination of witnesses.

## The CPG Evaluation Criteria

The Board bases its decision on CPG applications on specific statutory criteria established in Section 248 and that incorporate the Act 250 criteria. These criteria include and are limited to the following:

- Orderly Development of the Region
- Need for Present and Future Demand for Service
- Economic Benefit to the State
- Aesthetics, Historic Sites, Air and Water Purity, and Natural Environment and Public Health and Safety
- Outstanding Resource Waters
- Air Pollution
- Water Pollution
- Headwaters
- Waste Disposal
- Water Conservation
- Floodways
- Streams
- Shorelines
- Wetlands
- Sufficiency of Water and Burden on Existing Water Supply
- Soil Erosion
- Transportation Systems
- Educational Services
- Municipal Services
- Aesthetics, Historical Sites and Rare and Irreplaceable Natural Areas
- Necessary Wildlife Habitat and Endangered Species
- Development Affecting Public Investments
- Compliance with Least Cost Integrated Plan
- Compliance with Electric Energy Plan
- Waste to Energy Facility
- Existing or Planned Transmission Facilities
- Executive Order #52: Agricultural Land
- Basis for §248(j) Jurisdiction

For more information on each of the above criteria, the Certificate of Public Good process, and the Public Service Board, visit:

<http://psb.vermont.gov/statutesrulesandguidelines/guidelines>

*The mission of ENERGIZE VERMONT is to educate and advocate for establishing renewable energy solutions that are in harmony with the irreplaceable character of Vermont, and that contribute to the well-being of all her people. We achieve our mission by researching, collecting, and analyzing information from all sources; and disseminating it to the public, media, community leaders, legislators, and regulators for the purpose of ensuring informed decisions for long term stewardship of our communities.*

### ***THE SECTION 248 PROCESS: (cont.)***

#### **STEP 5: INTERVENTION - BECOMING A PARTY TO A CASE**

Certain state agencies, towns, planning commissions are required to receive notice of the application, and become a **PARTY** to the case. Others may apply to become formal parties to the case as **INTERVENORS**, and can provide testimony, participate in hearings, and must follow certain procedural rules. Intervenor is usually represented by an attorney.

#### **STEP 6: PREFILED TESTIMONY**

Any matters that a party to the case wishes to convey to the Board during the proceedings must be included in their prefiled testimony and exhibits. This is followed by opportunities for rebuttal and cross-examination of witnesses, all of which becomes part of the case file.

#### **STEP 7: DISCOVERY**

The discovery period is an opportunity to ask questions about submitted witness testimony and exhibits. Either in writing or in person, information obtained may be included in the case file.

#### **STEP 8: EVIDENTIARY HEARINGS**

Similar to a trial, with testimony pre-filed in advance. Witnesses are called to testify and may be cross-examined by parties to the case.

#### **STEP 9: BRIEFS**

At the end of the evidentiary hearings, parties will file briefs to restate their position and point to pertinent facts, precedent and rules for the Board to consider. Reply briefs can also be filed to respond to arguments made by the other parties.

#### **STEP 10: DECISION**

The Board now issues a decision or final **ORDER** which includes findings and facts under the Section 248 **CRITERIA**. Any Order can be appealed to the Vermont Supreme Court.