

November 7, 2011

Susan Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, Vermont 05620-2701

In Re: Joint Petition of Central Vermont Public Service Corporation et al.
Docket No. 7770 – The Need for Independent Counsel

Dear Mrs. Hudson:

I am writing in response to the “Surreply Of The Department Of Public Service To Reply To Opposition To Petition To Appoint Independent Counsel,” which was emailed at 4:47 p. m. today.

I concur with the Department’s position. Accordingly, I request that the Board hold off on ruling on my Petition To Appoint Independent Counsel until the Department has articulated its proposal in response to Amended Joint Petition of Central Vermont Public Service Corp. et al.

This Proposal Will Change The Face Of Electric Ownership, Transmission and Distribution For Generations. The Board has quite rightly opined on the magnitude and importance of this proceeding in its Order of November 2nd. The result will not simply change service territories or rates for a few years, but reshape Vermont’s economic engines for generations. For these reasons, holding off for a few weeks on ruling on the petition of the ratepayers for independent counsel will not in any way prejudice the petitioners, the interveners and the public.

Background. Since the Department in its filing today has restated its position, and has referenced the protocol followed in previous cases in which a petition for appointment of independent counsel has been filed, allow me to restate my position and to also take a walk down memory lane.

A core element of Vermont’s economy is up for sale, including ownership and control of VELCO, the intrastate and interstate highway of electric transmission around and through Vermont. All Vermonters depend on VELCO. It falls to the Board to decide on the wisdom of such a profound and permanent change. It must have the best information to decide well and wisely, and if the Board decides to approve the proposal, to impose conditions which will ensure that decisions made by VELCO will best serve the needs of Vermonters.

I have urged the Board to appoint independent counsel for the Public to ensure that the Board’s process is fully and properly informed from the perspective of the Public Good, which is the criterion for a proposal of the proposed merger.

Forty-six ratepayers -- indeed a multitude of intervenors made up of small utilities and companies (with discrete, personal issues in mind) -- are no substitute for a strong, independent advocate supported by experts and consultants with experience in foreign ownership, large

vertical integrated utilities, monopoly impacts on the remaining cooperative and public entities and their ratepayers, and so much more.

Rather than disqualify the commissioner and the Department from all participation, the Board has the opportunity to provide for a vigorous, well-vetted case by appointing an independent counsel for the Public under Sections 20 and 217. The Board should not pass up this opportunity.

Governors Aiken and Gibson. I have previously noted Gov. Governor Aiken's warning against entanglements with power companies. Governor Ernest W. Gibson, Jr. also emphasized the importance of independent experts in advising the Public Service Commission.

I attach a page from Richard Munson Judd's book, *The New Deal in Vermont: Its Impact and Aftermath*.¹ In 1937, Ernest W. Gibson, Jr., then the secretary of the Vermont Senate, went before the House Judiciary Committee to complain about the Public Service Commission's reliance on experts recommended and allied with the public utilities, "deploring the Public Service Commission's dependence upon expert engineers and accountants selected with the advice of the private power companies." Mr. Judd wrote the following:

Gibson pointed out that, of the \$608,000 spent for utilities investigations since 1925, \$604,000 had gone to the New York firm of Barker and Wheeler, an accounting establishment which included some of Vermont's largest utilities among its clients. Declaring firmly that "One man cannot serve two masters," Gibson proposed an independent staff of experts for the Commission, to be paid out of a special tax levied on the utility corporations.² His suggestion was endorsed by one member of the PSC, Commissioner Milo Reynolds, who told the Judiciary Committee: "The whole system, gentlemen, is pernicious."

The critical remarks of Gibson and Reynolds were well timed. The Judiciary Committee had developed an interest in the relationship between the power companies and state officials as a result of a conflict between the State Government and the **Green Mountain Power Company** over one of the Winooski Valley flood control dams.³

* * * * *

Attached.

The public has not yet taken full notice of Docket No. 7770. However, the decision in this proceeding, the circumstances surrounding it, and the ramifications from it, will be remembered and will be with us for a very long time.

¹The book is no longer being printed. It was last published in 1979 and is an updated version of a Ph. D thesis at Harvard. Evidently, Judd later taught at Marlboro College. The Vermont State Library can locate a copy.

² Footnote omitted.

³ Footnote omitted.

Conclusion. I respectfully request that the Board not decide the Petition To Appoint Independent Counsel until the Department has articulated its response to the proposed Amended Petition. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Vince Illuzzi".

Vincent Illuzzi, Ratepayer

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Enclosure

cc: Service List

The Vermont Public Service Commission bore the responsibility of supervising and regulating the treatment of consumers by public service corporations. In 1938, the Commission's effectiveness was open to serious doubt as a result of disclosures during the preceding year. During the legislative session of 1937, Ernest W. Gibson, Jr., Secretary of the Vermont Senate, appeared before the Judiciary Committee of the State House of Representatives with a statement deploring the Public Service Commission's dependence upon expert engineers and accountants selected with the advice of the private power companies. Gibson pointed out that, of the \$608,000 spent for utilities investigations since 1925, \$604,000 had gone to the New York firm of Barker and Wheeler, an accounting establishment which included some of Vermont's largest utilities among its clients. Declaring firmly that "One man cannot serve two masters," Gibson proposed an independent staff of experts for the Commission, to be paid out of a special tax levied on the utility corporations.⁹⁴ His suggestion was endorsed by one member of the PSC, Commissioner Milo Reynolds, who told the Judiciary Committee: "The whole system, gentlemen, is pernicious."⁹⁵

The critical remarks of Gibson and Reynolds were well timed. The Judiciary Committee had developed an interest in the relationship between the power companies and state officials as a result of a conflict between the State Government and the Green Mountain Power Company over one of the Winooski Valley flood control dams. Early in March, 1937, it appeared that the power company, in conveying title to the dam site at Waterbury to the State of Vermont, had reserved to itself exclusive and prior rights to the storage and use of water for generating power. This meant that private power had been given precedence over public flood control. The United States Army Engineer in charge of the Waterbury project refused to