

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Joint Petition of Central Vermont Public Service)
Corporation ("CVPS"), Danaus Vermont Corp.,)
Northern New England Energy Corporation)
("NNEEC") for itself and as agent for Gaz Metro)
Limited Partnership and its parents, Green)
Mountain Power Corporation ("GMP") and)
Vermont Low Income Trust for Electricity, Inc.)
("VLITE"), for approval of: (1) the merger of)
Danaus into and with CVPS; (2) the acquisition)
by NNEEC of CVPS and certain other Vermont)
companies; (3) the amendment to CVPS's Articles)
of Association; (4) the merger of CVPS into and)
with GMP; and (5) the acquisition by VLITE of a)
controlling interest in Vermont Electric Power)
Company, Inc.)

Docket No. 7770

**PREFILED SURREBUTTAL TESTIMONY OF
RICHARD H. SILKMAN, PH.D.
PETER A. BRADFORD**

**ON BEHALF OF
AARP**

MARCH 8, 2012

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SUMMARY: DR. SILKMAN AND MR. BRADFORD ADDRESS THE PETITIONERS' PROPOSAL TO SATISFY THE WINDFALL SHARING ORDER

1 alternative proposals for satisfying the windfall sharing mechanism condition. Our
2 Surrebuttal testimony addresses these criticisms.

3

4 **Q. Please summarize the criticisms that other parties have expressed.**

5 A. There are 3 primary criticisms that have been advanced by other parties in this case:

6 1. The rebate mechanism won't accurately return to each customer the amount
7 contributed to the payment of bail out costs related to the HQ long-term power supply
8 contract.

9 2. The rebate mechanism is inefficient as a result of the administrative burden it will
10 impose of CVPS.

11 3. The \$21 million should be spent on energy efficiency rather than returned outright to
12 customers.

13

14 **Q. Do you believe that these criticisms are valid?**

15 A. No, we do not.

16

17 **Q. Please explain why you do not believe the first criticism is valid.**

18 A. As we noted in our direct testimony, no mechanism can avoid a mismatch between the
19 future recipients of the \$21 million in windfall mitigation and the past customers who bailed
20 CVPS out of the financial distress brought on by imprudently incurred costs related to the HQ
21 power supply contract. The ebb and flow of customers into and out of the CVPS service
22 territory, the changing electricity usage patterns of these customers and the changing
23 relationship between the price in the HQ contract and a prudent alternative make it virtually

1 impossible to identify the amount of imprudently incurred costs paid by each CVPS ratepayer
2 over the full term of the HQ contract.

3 The Board of course anticipated such a mismatch, as each of the three factors noted
4 above are fundamental to any regulated utility. Customers are always moving into or out of a
5 utility's service territory; Customers are always changing the way in which they use electricity;
6 and the financial consequences of imprudence related to any long-term contract that is found
7 to have been entered into imprudently is a function of changing market conditions. Further,
8 the Board could not have known when in the future the windfall sharing mechanism would be
9 triggered, as there was no way of knowing whether or when CVPS would ever be merged into
10 or acquired.² Yet, as we have shown in our direct testimony, the Board was very clear in its
11 order that the windfall sharing mechanism be implemented at the same time as any merger
12 and/or acquisition.

13

14 Further, the mismatch created by a direct one-time rebate is far less than the mismatch
15 that results from any other mechanism proposed in this docket by the other parties. The
16 establishment of an energy conservation fund for purposes of making grants or providing
17 rebates to CVPS customers that engage in certain approved activities will provide benefits
18 primarily to those customers and not to the tens of thousands of CVPS customers that do not
19 participate in such programs. In addition, if the energy conservation program is one designed
20 to conserve thermal energy as opposed to electric energy, there may be no relationship
21 between the beneficiaries and the CVPS ratepayers who were burdened by having to pay for

² In fact, the Board provided for an adjustment to the windfall revenue amount to adjust for inflation precisely because it did not know when in the future the windfall sharing would be triggered.

1 bail out costs.³ Finally, if the conservation program is a revolving loan fund rather than a grant
2 or rebate, the problem of returning the monies used to capitalize the fund to CVPS ratepayers
3 at some point in the distant future will only exacerbate the mismatch problem.⁴

4 Those opposed to our proposed rebate mechanism out of concern about the mismatch
5 between the share of bail out costs paid by CVPS ratepayers over the term of the HQ contract
6 and the share of the \$21 million they will receive must demonstrate that their mechanisms for
7 returning the \$21 million to ratepayers results in a smaller mismatch. No party has made any
8 such claim, which is not surprising, because no such claim could be supported.

9

10 **Q. Please explain why you believe the criticism relating to the administrative burden**
11 **imposed on CVPS is invalid.**

12

13 A. Our proposal calls for the use of a simple mathematical formula to compute the dollar
14 value of the rebate check to each CVPS ratepayer. This amount can be distributed either
15 through the mailing of a check or an on-bill credit. According to the CVPS 2010 Annual Report,
16 CVPS has approximately 160,000 ratepayers. Assuming it costs \$1.00 to process and mail each
17 rebate check, the administrative cost to CVPS is equal to \$160,000 or less than 1% of the total
18 amount of the windfall revenue. This is hardly a large administrative burden. If the rebate is

³ Mr. Plunkett acknowledges this shortcoming in his deposition where he states that, "there's not much electricity savings to be had from just a thermal efficiency improvement in Vermont." TELEPHONIC DEPOSITION of JOHN J. PLUNKETT taken on behalf of AARP on Monday, February 27, 2012, page 49, lines 12-14.

⁴ Of course, if these monies are used to pay for administrative costs or to cover bad debt under some other program, there will be no relationship between the receipt of the monies by CVPS ratepayers and the share of the imprudent costs these ratepayers incurred.

1 returned to each ratepayer in the form of a credit on that ratepayer's monthly bill, the
2 administrative cost would be even lower.

3 By comparison, any energy conservation program is sure to cost more than 1% to
4 administer. Our understanding is that federal grant programs often limit administrative costs
5 to 5% of the amount distributed. Efficiency Vermont administrative costs for the three-year
6 period 2009-2011 were projected to be approximately 4.78% and are projected to be 1.7% for
7 2012.⁵ Both of these figures are well above the administrative burden that will be imposed on
8 CVPS under our proposed rebate mechanism. As with the concern regarding mismatch, those
9 who criticize our proposed rebate mechanism based on administrative burden must
10 demonstrate that any other approach can be implemented with lower administrative costs.

11

12 **Q. The third criticism is that energy conservation is more beneficial to society than**
13 **rebates. Do you agree with this criticism?**

14

15 A. No, we disagree. To be clear, the Petitioners are not proposing to use the \$21 million in
16 windfall mitigation to fund energy efficiency. They are proposing that shareholders retain the
17 \$21 million and that ratepayers pay for the investments that the Petitioners assert would be in
18 the public interest. Thus the Petitioners' position is not that AARP is proposing a use of the
19 windfall funds that could be leveraged for greater public benefit if invested in efficiency; their
20 position is that no shareholder funds should be spent, for repaying ratepayers or for efficiency.⁶

⁵ *Efficiency Vermont – Annual Plan 2009 - 2012*, Vermont Energy Investment Corporation, page 26 and
Efficiency Vermont – Annual Plan 2012, Vermont Energy Investment Corporation, page 7.

⁶ Petitioner's rebuttal witness, Mr. Plunkett seems to agree that the proposal from Petitioners has nothing to do with payment of the \$21 million owed by shareholders. Deposition p.34-35, esp. p.35 lines 13-15 (Q: "Now the proposal you've addressed takes ratepayer money and invests it, correct? A: Yes. On behalf of ratepayers.")

1 Under Petitioners' proposal, shareholders keep the \$21 million and the "repayment" to
2 ratepayers would be made by investing *ratepayers'* own funds. We addressed the ways that
3 such a proposal violates the Board's windfall mitigation order in our initial testimony.

4 The Department of Public Service, by contrast, has agreed with us that the \$21 million is a
5 debt owed by shareholders that must be repaid by shareholders. Unlike petitioners, the DPS
6 has advocated using \$21 million in shareholder money for efficiency.

7

8 **Q. What is your response to the Department of Public Service's witnesses that the \$21**
9 **million from shareholders should be spent on efficiency?**

10

11 A. We disagree. We both have extensive public records as strong supporters of cost
12 effective energy efficiency. However, we also believe that regulatory bargains should be kept.
13 These mismatch issues are not abstract concerns. How can anyone possibly claim that a low
14 income family would prefer to see its rent or food or medicine money "invested" to insulate
15 second or third homes? That a ski area in bad shape after a disappointing winter would prefer
16 to see its share of the windfall mitigation fund invested to reduce oil use in condominiums?
17 That a community hit hard by Hurricane Irene cannot find more urgent (and socially efficient)
18 uses for the money than reducing the remaining greenhouse gas emissions in the nation's
19 cleanest electric system.

20 Not only has this money been promised to customers, but the proponents of capturing
21 the \$21 million windfall mitigation fund for energy efficiency programs are proposing to use the
22 funds on commercial efficiency, and, for residential ratepayers, on thermal efficiency. As we
23 and the Board have stated, energy conservation programs designed to conserve thermal energy

1 create no relationship between beneficiaries and the CVPS ratepayers who were burdened by
2 having to pay for the bailout.

3 The Board, in reviewing Green Mountain Power's windfall funds, raised the same
4 concern. In its March 26, 2007 Order in Docket 7213, the Board wrote:

5 We do want to express significant concerns about one potential energy
6 efficiency investment suggested by GMP - GMP testified that thermal-barrier
7 projects for GMP can generate particularly large returns. According to GMP,
8 the beneficiaries of Efficiency Fund investments in thermal barriers would be
9 GMP customers, even though the benefit to the customers would not come
10 directly through electric savings. Unless the customers are using electric
11 heating, however, these investments would save primarily other fuels, not
12 electricity. As a result, the system benefits of reduced electrical usage that
13 flow to all customers would not occur. It is also not clear whether from the
14 electric ratepayers' perspectives, these measures are cost-effective. We do
15 not need to resolve this issue now, but if GMP seeks to implement energy
16 efficiency measures directed at non-electrical uses, it will have a heavy
17 burden of persuasion.

18
19 256 P.U.R. 4th 66, 2007 WL 981734 (p.23).

20 The Board reiterated its concern in Petition of Green Mountain Power for Approval of the
21 Efficiency Fund 2008 Annual Plan, Docket 7412, 2008 WL 5003350 (March 14, 2008) (p.2).

22
23 Neither the Petitioners' proposal to use ratepayer funds for efficiency nor the
24 Department's proposal to use shareholder funds that are owed to ratepayers for efficiency
25 should be adopted. Neither honors the explicit intent of the windfall protection order. Neither
26 will provide a repayment to ratepayers in a fair and efficient manner. Providing residential
27 ratepayers with a check, or a rebate, as we proposed in our initial submission, would do so.

28
29 **Q. Does this conclude your testimony?**

30 A. Yes.