

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Docket No. 7770

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. )

**SURREBUTTAL TESTIMONY OF  
KENNETH A. NOLAN  
ON BEHALF OF  
CITY OF BURLINGTON, VT ELECTRIC DEPARTMENT**

March 8, 2012

1 Q1. Please state your name.

2 A1. My name is Kenneth A. Nolan.

3

4 Q2. Are you the same Kenneth A. Nolan who provided direct testimony on behalf of  
5 Burlington Electric Department ("BED") in this proceeding?

6 A2. Yes I am.

7

8 Q3. What is the purpose of your surrebuttal testimony?

9 A3. To respond to the various VELCO governance proposals advanced by other parties to this  
10 proceeding, and explain why each proposal has internal inconsistencies or is otherwise  
11 flawed from BED's perspective.

12

13 Q4. You provided direct testimony suggesting changes were needed to the voting structure  
14 concerning the Highgate Converter facility as well. Do you have further comments on  
15 that issue?

16 A4. Yes. In his rebuttal testimony on behalf of Green Mountain Power Corporation  
17 ("GMP"), Mr. Otley indicated GMP's agreement to the changes to the Highgate Joint  
18 Ownership Agreement I recommended in my direct testimony. Given this agreement,  
19 BED requests the Board to condition any approval of the proposed merger on the  
20 Highgate Joint Ownership Agreement being amended consistent with my

1 recommendation.

2

3 Q5. Testimony has been filed by others on a wide range of issues. Do you have comments on  
4 any topic other than VELCO and VTRANSCO governance?

5 A5. With one exception, no. BED is not opposed to the merger provided any approval is  
6 conditioned to ensure that BED's competitive position relative to the combined company  
7 is not undermined. My testimony, and BED's position, is focused solely on issues  
8 affecting our future relationship with the combined company. Issues around transmission  
9 access for other utilities, how to combine the companies' rates, or ratepayer windfalls, do  
10 not affect BED's competitive position, and are rightly discussed by those parties who are  
11 affected. The one exception is Ampersand Gilman LLC's testimony suggesting that  
12 conditions should be placed on the combined company's ability to build generation. I  
13 will address this issue at the end of my testimony.

14

15 Q6. Several parties have filed proposals on the subject of VELCO and VTRANSCO  
16 governance. Have you reviewed those proposals?

17 A6. Yes I have.

18

19 Q7. What are your overall impressions?

20 A7. Overall I feel that many of the proposals are internally inconsistent and are being driven

1 more by the proposing party's individual goals than by an attempt to provide a workable  
2 governance structure for VELCO.

3  
4 Q8. Couldn't others say the same of BED's proposal?

5 A8. Certainly they could, but the proposal advanced in my direct testimony was based upon  
6 discussion with other parties, and attempted to address all parties' underlying concerns in  
7 a package that provided every party some of what they wanted. My reading of the other  
8 proposals left the opposite impression. That is, most of them created a structure that met  
9 their needs, but ignored governance concerns expressed by others.

10  
11 Q9. Can you provide examples?

12 A9. Two examples are readily apparent—the proposals put forth by ratepayer Illuzzi and  
13 Stowe Electric Department ("SED" or "Stowe").

14  
15 Q10. Please explain BED's concerns with SED's proposal.

16 A10. SED put forth a proposal whereby the VELCO Board of Directors would be reduced in  
17 size to seven (7) members, one representing each "owner" and the VELCO CEO. Under  
18 SED's proposal the municipals, other than itself and BED, would be represented by  
19 VPPSA.

20

1 Two immediate concerns become apparent. First, the VPPSA structure becomes an  
2 inherent problem under Stowe's proposal. Either the VPPSA members have to accept  
3 some dilution of their rights in order to remain a VPPSA member, or VELCO becomes  
4 subject to a wildly swinging Board size as each VPPSA member decides whether it wants  
5 to be represented by the VPPSA General Manager or hold an independent Board seat.  
6 This would create the opportunity for VPPSA members to change, add, or remove Board  
7 seats depending on the issue of the day, and how important they felt it was. More  
8 notably, SED's proposal creates the potential for VPPSA's members to each demand a  
9 seat, thereby gaining 12 of 18 seats (assuming the VPPSA GM would not have a seat in  
10 that case) and controlling the Board.

11  
12 To eliminate these potential pitfalls requires that VPPSA members be represented by  
13 VPPSA's General Manager, but in doing so VPPSA members are subjected to the same  
14 lack of representation that Stowe complains of and that led to its demand for its own  
15 Board seat. It is ironic that Stowe is demanding a Board seat primarily because of a  
16 stated dissatisfaction with how VPPSA represented it in connection with the Lamoille  
17 County Project (Direct Testimony of Ellen L. Burt ("Burt Testimony"), page 18, lines 1-  
18 3), yet its proposal would either put VPPSA in control of the Board or subject its  
19 members to the same discrimination about which Stowe complains.  
20

1 The second obvious concern is that Stowe's proposal does not include any independent  
2 Board members. Aside from the fact that this position is diametrically opposed to the  
3 position advanced by the Department of Public Service ("DPS"), most parties would  
4 agree that a well-functioning Board should have some level of independent voice, as the  
5 VELCO Board structure does today. In contrast, BED's proposal to have "at-large"  
6 public power seats eliminates the VPPSA membership problem outlined above and  
7 allows the small public power systems to leave or join the Board in a controlled and  
8 predictable manner. Furthermore, by retaining the Independent Board members, but  
9 requiring a more formal nomination process, BED's proposal also keeps the benefits of  
10 that structure intact.

11  
12 Q11. Are there any other concerns with the Stowe proposal?

13 A11. Their proposed structure has some other internal inconsistencies. Specifically, Stowe  
14 states that the utility owners of VELCO should be free to choose their own Board  
15 members (Burt Testimony, page 19, lines 11-12), but on the same page of testimony states  
16 there should be staggered terms with term limits (Burt Testimony, page 19, lines 18-20).  
17 There is an inherent conflict between allowing each owner to choose who can best  
18 represent them, and requiring term limits. I also assume that the term limit would not  
19 apply to the VELCO CEO, although that is not stated.

20

1 Q12. In recent responses to various interrogatories Ms. Burt makes several comparisons  
2 between BED's experiences with VELCO as stated in your direct testimony and Stowe's  
3 experiences. Do you have any response to those comparisons?

4 A12. Yes I do. The conclusions Ms. Burt has drawn from my statements are not valid.  
5

6 Q13. Please explain.

7 A13. In response to SED:VELCO.7, Ms. Burt implies that BED had an easier time negotiating a  
8 cost allocation agreement with regard to the East Avenue Project than Stowe had in  
9 regard to the Lamoille County Project because BED held a VELCO Board seat. Ms.  
10 Burt's perception is misplaced. The "ease" with which BED negotiated a cost allocation  
11 agreement is largely attributable to BED's dedication of significant resources to move the  
12 project forward, its ability to quantify and document the benefits of the East Avenue  
13 Loop project, and GMP's professionalism and reasonableness in reviewing those  
14 benefits. Once BED had convinced VELCO to proceed with the project, which had been  
15 on the VELCO drawing board for a half century, I was able to negotiate with Robert  
16 Griffin at GMP to reach a cost allocation agreement within a few months. BED and  
17 GMP readily documented the benefits each would receive, and each agreed to pay its fair  
18 share, including substantial "Specific Facility" costs. The results had nothing to do with  
19 BED holding a Board seat. They had everything to do with BED putting the resources on  
20 the project to document and explain its impacts, and with the fact that only two utilities

1 were involved who understood the benefits each was receiving.

2

3 Q14. Ms. Burt also references your testimony about the Lyndonville substation in response to  
4 the VELCO interrogatories. Do you have any reaction?

5 A14. Yes. In her response to SED:VELCO.13, Ms Burt implies that the VELCO decision to  
6 delay the Lyndonville substation in the late 1980s is similar to the issues Stowe  
7 experienced in connection with the Lamoille County Project. Having personally been  
8 involved in both projects, I can safely say the two cases are not similar. In the  
9 Lyndonville case, it was debatable whether or not the substation was needed for  
10 reliability, and CVPS opposed constructing the substation. As a result, VELCO's  
11 reliability determination became the deciding factor. In essence, the coin flip landed on  
12 the edge, and VELCO could have nudged it either way – it chose to take CVPS' side. In  
13 the case of Lamoille County, everyone agreed there was a reliability problem, and the  
14 only dispute was who should pay for it. There were nearly a dozen utilities involved,  
15 each with a different position on cost allocation, and commitments had been made by  
16 some parties that were later disclaimed. VELCO found itself having to move forward  
17 with a project to preserve reliability without knowing how it would be paid for, and  
18 facing the need to bill someone for the costs knowing that it would likely trigger  
19 litigation -- a far different situation.

20 Q15. Were there any other aspects of Stowe's testimony on which you care to comment?

1 A15. Yes. In addition to the incorrect conclusions drawn, I would note that in her effort to  
2 portray Stowe as a victim, Ms. Burt fails to acknowledge BED's support for Stowe's  
3 position in several of her examples.

4 For example, Ms. Burt states that Stowe made efforts to get a fair hearing of their  
5 concerns with regard to the Lamoille County Project, and those efforts were rebuffed  
6 (Burt testimony, page 10, lines 6-7). That statement is not entirely factually correct.  
7 Based upon my personal involvement with the Lamoille County Project, I was aware  
8 Stowe believed that VELCO was not being responsive. During the cost allocation dispute  
9 that arose, Ms. Burt called me seeking BED's assistance. In response to that call, a  
10 meeting was facilitated between Ms. Burt, Mr. Ed French (SED's Chairman), and Ms.  
11 Barbara Grimes, BED General Manager and a VELCO Board representative. In that  
12 meeting Mr. French and Ms. Burt expressed frustration with the allocation of the project's  
13 Specific Facilities costs to Stowe, and the resulting potential rate impacts. Since I had  
14 attended project meetings where Stowe's previous manager had stated that Stowe would  
15 pay for any project costs not paid for by others, I was not entirely sympathetic to the  
16 allocation concerns expressed. However, the rate impacts seemed to be a valid point, so  
17 Ms. Grimes and I discussed potential solutions and eventually arrived at the concept of  
18 allowing Stowe to buy VTRANSCO equity equal to their share of the project costs  
19 allocated to them. Essentially, this allowed Stowe to fund the costs using their cost of  
20 money instead of VTRANSCO's, thereby reducing rate impacts. Ms. Grimes, as BED's

1 Board representative, took that concept to the VELCO Board as a proposed solution. It  
2 ultimately formed the underlying structure of the Lamoille County Settlement. BED did  
3 in fact use its position on the VELCO Board to attempt to reach a reasonable solution on  
4 Stowe's behalf.

5 Similarly, in describing the B-22 loss discussion before the Operating Committee, Ms.  
6 Burt fails to mention that on several occasions I expressed BED's support for Stowe's  
7 views, and stating that VELCO should only apply the losses approved in the parties'  
8 transmission tariffs. My belief is, and was, that there is a FERC process for adjusting the  
9 losses in approved tariffs, and that process should be followed with regard to the B-22  
10 issue.

11 Also as demonstrated in our direct testimony, BED and Stowe were in agreement with  
12 regard to the meter error resettlement issue that is still before the Operating Committee.

13 Q16. You seem to have significant concerns with Stowe's testimony and interrogatory  
14 responses. Is it fair to say that you do not support their proposed solution to VELCO  
15 governance?

16 A16. Ironically, I share many of Stowe's concerns, and have found myself supporting their  
17 positions on many topics brought before the VELCO Operating Committee. However, I  
18 believe Stowe is very quick to portray themselves as the victim, and to make statements  
19 that imply all other utilities are against them. I have not found that to be the case. While I  
20 understand Stowe's concerns about being a small utility with no Board representation, this

1 is the direct result of their unilateral decision to separate from VPPSA. I believe their  
2 proposed Board structure is unworkable, and further that VELCO has put other  
3 mechanisms in place to address issues they have raised in the past. I will address these  
4 mechanisms later in my testimony.

5 Q17. You also believe ratepayer Illuzzi's proposal is flawed. Can you please elaborate?

6 A17. I have the same problem with ratepayer Illuzzi's proposal that I did with the DPS proposal  
7 as set forth in my direct testimony. However ratepayer Illuzzi's testimony, and events he  
8 has spurred since filing it, represent a clear case study of why a politicized VELCO Board  
9 would be dysfunctional.

10 Q18. Please explain.

11 A18. Much of ratepayer Illuzzi's testimony describes his concerns with actions he perceives  
12 Hydro-Quebec has taken to block power deliveries from the Maritimes to New England,  
13 and by extension his belief that Gaz Metro will be able to use its majority stake in VELCO  
14 to both block other suppliers from using the VELCO system and conversely force VELCO  
15 management to propose transmission lines through Vermont to move Hydro-Quebec  
16 power to market in southern New England. His stated reasoning for the need to make a  
17 majority of the VELCO Board appointed by the Nominating Committee put forward by  
18 Professor Dworkin, and for allowing the state to purchase 51% of VELCO, is a  
19 combination of protecting against undue influence from Gaz Metro and thereby Hydro-  
20 Quebec, and providing a high value "guaranteed" rate of return to the state.

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As for the ability of Gaz Metro and /or Hydro Quebec to block deliveries by others or force VELCO to build a line in Vermont for deliveries into southern New England, ratepayer Illuzzi's testimony displays a fundamental misunderstanding of the structure of the New England transmission system. All transmission in New England is governed by the ISO New England Open Access Transmission Tariff. Operational decisions as to who can use the transmission system and under what conditions are made by ISO-NE, not VELCO. Even if GMP controlled the VELCO Board, which it is not proposing, it would not be able to use that control to stop others from using the VELCO system. Even under ratepayer Illuzzi's Maritimes example, the so-called blockage is occurring on the Canadian side of the border, not within New England. Hydro-Quebec's ability to block power deliveries to Vermont by placing restrictions in Canada will exist regardless of the proposed merger. As for the concern about forcing the construction of lines in Vermont for delivering power to southern New England or New York, again the same conditions exist whether or not the merger occurs. Reliability planning is conducted on a regional basis, and Hydro-Quebec could easily propose a line through Vermont as a reliability solution to problems in southern New England. VELCO would then be forced to review it, and build it if it provided the best solution. Similarly, nothing stops Hydro-Quebec from proposing an economic project running through Vermont, with or without VELCO's support. In either case, Vermont's protection comes through the state's regulatory control

1 over siting of transmission lines. VELCO should have the obligation to bring forth the  
2 best possible solution to transmission problems, not have its Board pre-determine the  
3 answer based on political viewpoints.  
4

5 Q19. Do you have concerns with ratepayer Illuzzi's proposal for the state to buy a majority  
6 interest in VELCO?

7 A19. I find that discussion troubling on many levels, not the least of which is Senator Illuzzi's  
8 sponsoring of a Bill in the legislature to study this issue at the same time that he is  
9 testifying as a ratepayer. I and several other witnesses in this proceeding have been  
10 brought before legislative committees in the past several weeks to testify on this issue, and  
11 I find something inherently unsettling about a person being a witness in a PSB proceeding  
12 and simultaneously being able to call other witnesses in that same proceeding before  
13 himself and his committee to preview their likely responses and reactions.

14 This circumstance is easily extended to a future world, where the PSB has adopted  
15 ratepayer Illuzzi's recommendations for 51% of the VELCO Board to be appointed by a  
16 Nominating Committee, with VELCO Board candidates being asked to testify in the  
17 Legislature on key utility issues before the Nominating Committee acted on their  
18 candidacy to the VELCO Board. It seems very unhealthy to require Board members of a  
19 private company to go through some form of public confirmation process.  
20

1           Setting that issue aside, there are several basic facts that ratepayer Illuzzi is overlooking in  
2           his proposal:

3           i.    It is unclear whether ratepayer Illuzzi is proposing acquiring 51% of the VELCO  
4           stock, or 51% of the VTRANSCO membership units. If the former, then it is  
5           essentially a taking by the state in order to gain control of the governance decisions  
6           around transmission in Vermont since it would not be a transfer of physical  
7           transmission assets but a procuring of the right to manage the transmission system.  
8           If the latter, then it would be strictly an attempt by the state to get access to  
9           VTRANSCO's dividend stream and could be accomplished without any change to  
10          the VELCO Board of Directors. Reading his proposal literally would imply that  
11          the state purchase 51% of the VTRANSCO memberships units, and that ownership  
12          then be used to justify giving the state 51% of the VELCO Board seats. That's a  
13          mixing of rights between two completely separate companies that is not  
14          appropriate.

15          ii.   Ratepayer Illuzzi's testimony completely ignores the potential rate impacts of his  
16          proposal. Today the VELCO and VTRANSCO dividend streams go directly back  
17          to the Vermont distribution utilities to offset transmission costs. If the state now  
18          took those dividends for other purposes, the utilities would have to raise rates to  
19          make up the shortfall. For my legislative testimony I calculated the percent of  
20          revenue BED received from VELCO and VTRANSCO dividends in calendar year

1           2011, and found that it represented slightly over 4% of operating revenues.

2           iii.   Ratepayer Illuzzi also ignores the existing corporate rights of those owning  
3           VELCO and VTRANSKO. Both the VELCO and VTRANSKO governance  
4           documents include a right of first refusal for the other owners to buy any shares put  
5           up for sale, so the state would have to somehow invalidate or supersede that  
6           portion of the governance documents to make such a purchase.

7           iv.   In legislative testimony, no owner has expressed a willingness to sell its shares, so  
8           there needs to be some showing that state ownership of 51% of the company was  
9           in the public good, and worth a forced sale. There has been absolutely no evidence  
10          put forward showing that state ownership of all, or a portion, of VELCO or  
11          VTRANSKO would result in better outcomes for ratepayers than other ownership  
12          structures.

13   Q20. Were there other aspects of ratepayer Illuzzi's testimony that were of concern?

14   A20. One statement in particular struck me. On page twenty-three (23) of his testimony, at the  
15          very top of the page, ratepayer Illuzzi stated"

16                    "*General Good Directors should comprise 51 percent of VELCO's Board of*  
17                    *Directors. A 38 percent share with a right of first refusal in the event of future*  
18                    *mergers and acquisitions would not eliminate the possibility of corporate*  
19                    *influence on future political decisions.*" (emphasis added)

20          Further down the page he states:

1                    *“The state can borrow money at incredibly low rates, making this an opportune*  
2                    *investment vehicle with a guaranteed rate of return.”* (emphasis added)

3                    These statements sum up my overall concern with ratepayer Illuzzi’s positions. His  
4                    proposals are not necessarily to provide a stable long term governance structure that will  
5                    best serve Vermont ratepayers. Rather, he appears to be looking for a governance  
6                    structure that will provide political control over VELCO, and produce a new revenue  
7                    stream for state coffers.

8  
9                    Q21. Is it fair to say that you do not support ratepayer Illuzzi’s proposals with respect to  
10                    VELCO governance either?

11                    A21. No I do not. In my opinion, they are based on false assumptions about how the New  
12                    England transmission system operates, are designed to meet state political needs and not  
13                    the needs of Vermont ratepayers, do not recognize the realities of VELCO’s existing  
14                    governance agreements, and potentially create a VELCO Board subservient to future  
15                    political winds and hampered in making critical infrastructure decisions.

16  
17                    Q22. Washington Electric Cooperative (“WEC”) also put forth a proposal with respect to  
18                    VELCO governance. Do you have any concerns with it?

19                    A22. WEC essentially supported the DPS proposal, but also stated that public ownership of  
20                    VELCO of some sort should be explored. As stated in my direct testimony BED disagrees

1 with much of the DPS proposal. As a public entity ourselves, we clearly agree with  
2 WEC's view of the benefits of public ownership. Where we differ is in the view that the  
3 merger should be conditioned on a review of public ownership for VELCO, or that the  
4 VELCO governance that has been in place for 60-years should be turned on its head because  
5 of the proposed merger. Were we starting from scratch today we all might take a very  
6 different view of what VELCO's ownership and governance should look like, but we are  
7 not starting from scratch and cannot ignore the rights and obligations parties have amassed  
8 over the past decades. We believe it is appropriate for the PSB to place those conditions  
9 on the merger that are necessary to ensure a level playing field going forward. We  
10 disagree with WEC that the PSB should use the merger as an opportunity to restructure  
11 Vermont's entire utility landscape.

12 Q23. Earlier in your testimony you mentioned other mechanisms VELCO has put in place to  
13 improve governance. Can you describe some of them?

14 A23. Certainly. I would say they are constantly evolving, and that VELCO has been much  
15 better over the past several years at reacting to concerns that are raised. Stowe's testimony  
16 raised concerns about lack of input on projects, and WEC mentioned a lack of notice  
17 about equity calls. Shortly after the Lamoille County Project dispute was settled at FERC,  
18 VELCO established a committee to resolve some of the ambiguity in the Vermont  
19 Transmission Agreement. I was BED's representative. The committee met for several  
20 months, using an outside facilitator, and developed a document called the Vermont

1 Transmission Access Manual, or V-TAM, which contained a series of interpretations the  
2 utilities had agreed to in defining future cost allocations. Completion of that document led  
3 to a re-creation of the VELCO Operating Committee, which is charged with continuing to  
4 refine the interpretations as new issues surface and reviewing any major VELCO project  
5 initiatives. In addition VELCO has established a CFO forum similar to the Operating  
6 Committee where the utility CFO's discuss the financial ramifications of VELCO's plans,  
7 review proposed budgets, and confirm the timing and structure of future equity calls.  
8 Other project specific committees are established among technical staff as needed, such as  
9 was recently done for the fiber-optic project. I would also point out that the VSPC did not  
10 exist when many of the issues raised by others occurred. There is a much greater ability  
11 for small utilities to shape projects and raise concerns at various levels other than the  
12 Board of Directors than existed five or ten years ago.

13  
14 Q24. Do you agree with the testimony put forward by Mr. Dutton and Commissioner Brownell  
15 on behalf of VELCO?

16 A24. Not quite. Mr. Dutton and Commissioner Brownell did a very good job of explaining why  
17 "Public Good Directors" are not necessary, and may actually be detrimental. I agree  
18 completely with their description of the oversight VELCO already receives, and their  
19 conclusion that there are ample checks and balances in place to ensure that VELCO's  
20 decisions are in the public good. Commissioner Brownell also did a fine job of explaining

1 the potential changes that could be made in the VTRANSCO agreement to make sure a  
2 tyranny of the majority did not exist, and I agree with her proposed solution to require a  
3 majority of both the overall membership units and majority of the minority of membership  
4 units for major VTRANSCO decisions such as replacing the manager.

5 The issue they failed to address, and where my concerns lie, is around cost allocation  
6 under the Vermont Transmission Agreement (VTA). As a grandfathered agreement the  
7 VTA is a unique transmission tariff, both within New England and the United States as a  
8 whole. Its definition of "Common" and "Specific" facilities is broad, and leaves much up  
9 to the interpretation of VELCO staff. As I noted above VELCO has created the V-TAM  
10 to help guide its staff in performing future allocations, and has re-established the  
11 Operating Committee to address any disputes that arise. But, I remain concerned that a  
12 majority owner could exert undue influence on allocation decisions. It really comes down  
13 to a cultural issue. If the majority of VELCO's revenues in the future come from GMP,  
14 and the VELCO staff spends the majority of its time working with GMP staff, there will  
15 be a natural tendency to do what GMP thinks is best. I have seen it happen with regard to  
16 VELCO and CVPS in the past. My view is that by working within the existing VELCO  
17 Board structure but changing the cultural bias at the top to one more driven by public  
18 power, a balance can be maintained.

19  
20 Said differently, I agree completely with VELCO's position that changes in its governance

1 structure are not necessary to ensure that it performs in the public good from a  
2 transmission siting and construction standpoint, and that the creation of “Public Good  
3 Directors” would actually destabilize the Board. I also agree that minor tweaks can be  
4 made to existing governance documents to address “tyranny of the majority” issues  
5 around VTRANSCO decision making. I disagree that changes are not needed to insure  
6 that costs are not shifted to smaller utilities and a level playing field is maintained from a  
7 competitive position standpoint. At the same time, I do not believe proposals that give  
8 every utility a Board seat, or provide utilities with the option to be represented by VPPSA  
9 or not, or completely replace the VELCO governance structure to make it more responsive  
10 to the political winds, are workable solutions for allowing VELCO to meet its obligations  
11 in an effective manner.

12  
13 Q25. Clearly you believe the BED proposed governance changes are the best solution. Can  
14 you articulate why?

15 A25. There are two main themes in the testimony provided by other parties. First, is the public  
16 benefit theme, which implies that some structural change is required in VELCO  
17 governance to make certain the VELCO operates in the public interest. The DPS,  
18 ratepayer Illuzzi, and WEC put forward varying options in this regard. The second is a  
19 theme that the smaller utilities have not been treated well by VELCO in the past, and that  
20 condition could worsen in the future without governance changes. This position is led by

1 Stowe, with WEC and BED holding similar though varying positions. The remaining  
2 parties, namely AIV, VPPSA, and VEC, acknowledge that there may be issues requiring  
3 governance changes but take the position that the existing corporate rights and  
4 responsibilities must be recognized and any conditions imposed by the PSB should be  
5 broad enough to let the company craft its own solution.

6  
7 BED's proposal is the only one that draws a middle line between all of these positions and  
8 provides the checks and balances needed with minimal upheaval. In particular, BED's  
9 proposal would provide a greater focus on public benefit issues among the Board by  
10 making the majority of Board members representatives of public power. It would address  
11 the issues raised by Stowe and WEC by adding two at-large public power seats, but do so  
12 in a way that did not undermine VPPSA or create disruptive dynamics on the Board. It  
13 would also address some aspects of the "Public Good Directors" raised by the DPS and  
14 ratepayer Illuzzi by making nomination of Independent Directors a more formal process  
15 with legislators, regulators, or other stakeholders able to place nominations without  
16 politicizing the process or creating potential conflicts for the Independent Directors, such  
17 as requiring them to take formal public positions on key topics before they were  
18 nominated, that might make them unable to perform their fiduciary responsibilities to  
19 VELCO.

1 So yes, I believe BED's proposed structure is the best alternative put forward in this  
2 proceeding.

3  
4 Q26. Lastly, Ampersand Gilman, LLC has filed testimony describing conditions they believe  
5 should be placed on the combined company's ability to build generation. Do you have any  
6 comments on that testimony?

7 A26. Only to the extent I am concerned that any restrictions on the combined company  
8 building generation could set a precedent for other utilities. I fundamentally disagree  
9 with many of Mr. Goulding's statements regarding the ability for independent power  
10 producers to be more cost effective than utilities. For example, on page eight (8) of his  
11 testimony Mr. Goulding makes a very broad statement:

12 *"In addition CVPS and GMP should be required to competitively procure all of*  
13 *their future generation needs, or at a minimum all of their future renewable*  
14 *needs. Such a commitment would benefit ratepayers by assuring that*  
15 *developers bear the risk of cost and construction schedule deviations and the*  
16 *operational risk of the facilities. Through the competitive process costs are*  
17 *likely to be lower than those of the Combined Company if it were to build the*  
18 *facility itself, especially given the fact that developers, unlike utilities, cannot rely*  
19 *on ratepayers for recovery of cost overruns."*(emphasis added)

20 This paragraph contains several overly simplistic statements. I have been negotiating

1 Power Purchase Agreements with developers for more than 20 years, and can state from  
2 first-hand experience that a developer's bid includes an incremental rate of return for the  
3 risk they bear. A utility may choose to pick a developer's project rather than constructing  
4 themselves to shift some of the up-front risk to a third party, but that comes with an  
5 added cost built into the PPA. Second, the developer does not bear the full cost of any  
6 schedule delays. If the utility is counting on supply from a developer, and the project  
7 gets delayed, then the utility must go to the spot market to backfill that position, often at  
8 an added cost. The developer actually increases this risk to ratepayers, because the  
9 construction is outside of the utility's control. I would also point out that the statement  
10 that developers absorb the risk of cost overruns, is also a misnomer because most PPAs  
11 for projects that are not yet built have a built in contingency amount in the pricing, as  
12 well as an ability to walk away if costs increase too much. While any contingency in a  
13 utility built project gets returned to ratepayers if it is not used, the contingency in a  
14 developer built project is more likely to get reflected in the PPA pricing. And from an  
15 operational risk standpoint, many developers seek fuel cost pass-through provisions or  
16 escalators tied to key variables such as diesel fuel that pass a portion of the operational  
17 risk through to utilities as well. While any developer-utility relationship is essentially  
18 built around a sharing of the risks between parties, it is not correct to state that developers  
19 always absorb all of the risk, and therefore provide an insurance policy for ratepayers.  
20 Nor is it correct to imply that a mandatory competitive procurement process will always

1 result in lower risk, or cost, to ratepayers.

2

3 Q27. Does this conclude your testimony?

4 A27. Yes it does.