

## EGSPC 3rd Draft Packaging of the Recommendations

(April 3, 2013)

**Purpose:** Governor Peter Shumlin formed the *Energy Generation Siting Policy Commission* by Executive Order (No. 10-12) on October 2, 2012. The Commission was tasked with providing guidance and recommendations on best practices for the siting approval of electric generation projects, and for public participation and representation in the siting process. These recommendations are to be presented to the Governor and the chairs of the legislative committees: House Natural Resources and Energy, Senate Natural Resources, House Commerce, and Senate Finance by April 30, 2013.

**Context:** The work of the Commission is carried out in the context of the goals and targets contained in the State's Comprehensive Energy Plan and related statutes, as well as the impact of these targets on the electric generation siting process in Vermont:

- *State Goals:* 90% renewables across all energy sectors by 2050; 25% of all energy from *in-state* by 2025 (Act 92; S.209); 75% renewables in electric sales by 2032 (30 V.S.A. 8005(d)(4)); legislated reduction in Greenhouse Gas emissions (75% by 2050; 50% by 2028). See Annex 1 for details.
- *Consequence for siting:* the number and types dockets coming before the Public Service Board have changed dramatically over the past decade, with: i) considerably more land-use issues involved; ii) a wider range of technologies, and; iii) an increase in electricity generation dockets from zero per year in the early 2000s to an average of 16 per year in the past 3 years.

**Commission Goals:** The Commission understands that to achieve the State's clean energy goals, we must have processes for in-state permitting and approvals that create public trust. With this in mind, the Commission is particularly focused on recommendations related the following aspects of the siting process:

- The role of – and opportunities for - public participation and representation.
- Process uniformity, transparency, and efficiency.
- Adequate environmental and cultural protection.
- Ensuring that the *best* rather than *easiest* sites are selected, which includes encouraging projects that are community led.
- Avoiding unintended consequences and understanding financial resource constraints

**Recommendations:** The Commission proposes the following package of recommendations to improve the siting process for electric generation in Vermont. While many of these can be implemented through rulemaking, others will require statutory change. In order to assure expeditious completion of the recommendations, the Commission advocates that current processes under Section 248 remain in place until rulemaking and statutes are in place related to these recommendations and recommends moving quickly to implement the following package under five broad categories:

- ***Increase emphasis on planning at State, Regional/Town levels, allowing siting decisions to be in conformance with Regional Planning Commission (RPC) energy plans.*** This will ensure that electric generation projects are sited, whenever possible, in the best places with adequate prior public input.
- ***Implement a Simplified Tiered approach to siting*** to achieve a quicker, more efficient review of a greater number of small/less controversial projects – and those that conform to Regional Plans - while focusing the bulk of PSB time and effort on evaluation of larger, more complex projects. The goal is to encourage more community/distributed projects while simultaneously providing for greater opportunities for public participation in larger projects. The commission recommends a four-tiered system, where projects are classified by size, but have the ability to be placed in either a lower or higher tier based on complexity, resource impact and if they meet (or not) certain screening criteria.

- **Implement specific process modifications to increase the opportunity for Public Participation.** The Commission acknowledges the need to increase opportunities to both inform and address public aspirations and concerns in the electric generation siting process. The emphasis on energy planning at the Regional/town levels is a key factor to address this. In addition, the Commission recommends several specific process modifications related to the simplified Tier structure.
- **Implement specific process modifications to increase transparency and efficiency and coordination.** The Commission recognizes that the dramatic increase in the numbers and types of electric generation dockets before the Public Service Board requires important refinements in the current processes to provide greater clarity, accessibility, transparency and predictability in the process to all parties. The simplified Tier process incorporates a number of detailed recommendations to this effect.
- **Update environmental protection – and other – guidelines on a by technology basis, where necessary.** As renewable energy technology is deployed at an increasing rate and related siting issues evolve, the Commission recognizes the central role of providing clear and accessible guidance wherever possible to ensure that all parties in the siting process are adequately informed. The Commission recommends that specific guidelines and checklists be developed by the relevant agencies (ANR, PSD, DOH and AG) to reflect the changing energy landscape. These guidelines should be made publicly available, in clear lay terminology and based on peer-reviewed scientific literature, where possible, on an improved PSB siting website. The categories should include:
  - an update of existing guidelines
  - new guidelines that reflect impacts from new types of energy deployment
  - identification of areas in which there remains insufficient information to develop guidelines - or that are so site-specific that general guidelines are not applicable - and where the PSB must continue to rely on precedent and/or case-by-case analysis, until which time there is sufficient information to establish guidelines.

## Increase Emphasis on Planning

1. **The PSD shall develop a roadmap for meeting State goals and statutory targets** through scenario planning to recommend: the mix of in-state and out-of-state renewables; the anticipated mix of technologies; and the broad parameters for cumulative impact. This planning should use available tools to incorporate environmental considerations as well as economic, transmission and load analysis. See Annex 1 for details of statutory targets.
2. **Regional Planning Commissions (RPCs) shall develop geographic energy plans for high potential/low potential areas for electric siting by technology.** The DPS/ANR will provide the necessary guidance, tools and resources to RPCs to work with towns to develop plans. Examples of high potential areas could be where efficiency gains could be made (e.g., McNeil Biomass), 'low-hanging fruit' (e.g., brownfields, public buildings, new construction, rooftops, land under existing transmission lines, etc.), and specific zones. Examples of low potential areas might be those with a particularly high natural resource value, such as rare and irreplaceable natural areas, large habitat blocks or areas that provide an important habitat connectivity function. These high potential/low potential areas may differ significantly by technology, and no RPC or town can say 'no projects' in the region, either directly or indirectly. Generation facilities proposed for sites within designated 'high potential' areas will still need to comply with all environmental regulations and meet the natural resource standards set forth in Sec. 248 (b)(5).
3. **The RPCs shall have automatic formal party status** once the energy components of their regional plans have been completed and approved by the PSD, in consultation with other agencies, to be in conformance with the state's energy plan (see Annex 1 for explicit statutory targets). Their plans shall then be dispositive in the siting process meaning that any project appearing before the PSB must be in conformance with the approved Regional Plan. Note: The Commission is still deciding what to do with projects that are not in conformance with approved Regional Plans.

4. **Initial RPC planning costs must be funded** (est. \$25,000-\$30,000/region) in order for these recommendations to be effective. Annual updates should be covered by filing fees assessed to applicants (on a per MW basis) and a portion of an annual fee assessed to all merchant generators at a rate similar to the gross receipts tax assessed to Vermont utilities. The latter would also be used to cover some of the additional costs related to other recommendations on improving siting process efficiency. See Annex 3 for potential funding details.

## Simplify Tier System

Whereas the Commission recognizes that a 'tier' system currently exists for siting electric generation in Vermont, it is a system that was designed and amended across multiple legislative directives, and does not always function the way it was intended. Much of the testimony received by the Commission reflected a process that is lengthy and costly for all participants. Some of this is attributed to a need for greater public participation in the process, particularly for more complex projects. Some is attributed to a need for greater clarity, predictability and efficiency in the process itself. Added to this, the Commission feels that projects will have greater success if they are community driven. For this reason, the Commission recommends that a Simplified Tier system be established that provides both greater emphasis on public participation, more predictable guidelines and timelines, and greater incentives for community driven projects.

5. **The Public Service Board (PSB) shall implement a Simplified Tier process** to achieve a more efficient review of a greater number of small/less complex projects – and those that conform to Regional Plans - while focusing the bulk of PSB time and effort on evaluation of larger, more complex projects. The four-tiered system would classify projects by size, but have the ability to place projects in either a lower or higher tier if they meet (or not) certain screening criteria. Each tier would be accompanied by a clear checklist of requirements, available on the PSB website. See Attachment 2 for details.
  - *Tier 1: Application Form Process* ( $\leq 500\text{kW}$ , or the size of many school, municipal & farm-methane projects)
  - *Tier 2: Simplified Process* ( $\geq 500\text{kW}$  to  $\leq 2.2\text{MW}$ , the equivalent of the Standard Offer limit)
  - *Tier 3: Standard Process* ( $>2.2\text{ MW}$  to  $<15\text{MW}$ )
  - *Tier 4: Larger Scale Process* ( $\geq 15\text{MW}$ )
6. **The screening process shall incorporate criteria designed to encourage the development of projects that will have the greatest chance of success and reflect regional priorities.** Whereas the automatic default for tier designation is by MW capacity size (listed above), if a project meets certain criteria, it can be bumped from Tier 2 to Tier 1. Examples include one or a combination of the following: consistency with regional/town plans (those that have participated in the above-mentioned RPC planning process), community-led projects, proximity to transmission, proximity to load, appropriate land-use considerations (industrial, commercial, rural, residential), using existing structures. If a project does not meet minimum criteria for a given tier, it can be bumped upward to a more rigorous process. Note: the Commission is still determining the best way to encourage community driven projects, either through the screening process that allows projects to bump

## Increase Opportunity for Public Participation

The Commission believes that an increased emphasis on regional planning, as outlined above, will be a key factor in increasing opportunities for public participation in deciding where energy generation is best placed at every level. In order to formulate a regional energy plan, it is expected that town plans will play a central role in the process. Once the Regional Plans are completed and approved by the PSD, they will be dispositive, meaning that any project appearing before the PSB must be in conformance with the Regional Plan. The role of the public will be further strengthened by the following complementary recommendations within the proposed Simplified Tier System:

7. **Provide earlier notification to the public in both Tier 3 and Tier 4 project applications.** In Tier 3, the notification period should be moved from 45 to 60 days to all affected towns. In Tier 4, the period should be moved from 45 to 90 days (see Annex 2).

8. **Add increasing levels of public engagement requirements to Tier 3 and Tier 4 project applications.** In Tier 3, examples include: demonstrated contact with Selectboard and RPC of affected towns, notification of adjoining property owners, description of public outreach, comments received and explanation of how they were addressed. In Tier 4, applicants would provide a Public Engagement Plan (PEP) to the PSB 150 days prior to the 90 days public notice. The PEP would be based on guidelines developed by DPS (using successful public engagement models such as VELCO and NY state). PSD would designate/contract a facilitator to work with each applicant and the relevant public entities to ensure the PEP is implemented effectively. The new notice periods and PEP process do not replace the need for applicants to conduct the natural resource assessments and wildlife surveys that may be required by ANR (see Annex 2 for details). Note that further information is being developed regarding the proposed criteria for a PEP.
9. **Provide RPC funding support, if requested, on a cost-share basis in both the pre-application and application periods.** These funds would cover expenses for those RPCs that have completed the planning process and would partially cover costs associated with experts, own time, attorneys and other related 'party' costs. Costs would be covered by bill-back, under the following limits.
  - In order for a RPC to be eligible to receive any funding, the PSD must first determine that the energy section of the regional plan is consistent with the State Energy Plan. Under this scenario, the PSD does not have any direct control over the region's plan, but there is an incentive for the regional planning commissions to make the regional plan consistent with the CEP.
  - Once a RPC has been cleared to receive funding, the funding would be limited to arguments of whether or not the project is in conformance with the regional plan. In addition to that limitation, the expense would have to be reasonable and the funding would be provided on a cost-share basis.

### **Improve the Siting Process for Increased Transparency and Efficiency**

10. **The PSB shall hire a Case Manager/Online Docketing Manager to provide guidance** on all aspects of the siting application process to all parties, particularly as they relate to timing. In addition, the Case Manager would be responsible for ensuring that the improved website remains up to date with appropriate docketing information. The PSB shall also direct Hearing Officers to broaden the current interpretation of 'ex parte' communication, enabling them to have procedural discussions with parties or initiate a call with all parties on a substantive issue (on an as-needed basis) without going through the Clerk. This will also allow them to provide all the necessary information directly to the Case Manager to carry out his/her functions effectively.
11. **Develop specific checklists for each Tier to establish when an application is 'deemed complete'.** These would include the specific maps, studies and assessments required by ANR and any other information required by PSB, and may need to vary by technology.
12. **Require concurrent timing of ANR permit filing and Certificate of Public Good (CPG).** Applicants would be required to have *filed* the necessary ANR permits (and any associated Federal permits) as part of the CPG application that is 'deemed technically complete'. For Tier 3 and 4 dockets, discovery shall not begin until the associated ANR permit applications are deemed technically complete.
13. **Establish statutory timelines for all involved parties** (applicants, intervenors, ANR, PSB) with consequences if not met. For example, PSB shall hold a pre-hearing conference within 14 days of an application being 'deemed technically complete', ANR shall respond to permit application consistent with ANR's statutory permit performance standards. Include these timelines in an online docketing system, accessible by all parties. See Annex 2 for details.
14. **Establish overall performance standards for PSB approval of a CPG by Tier:** 3 months for Tier 1, 6 months for Tier 2, and 9 months for Tier 3, and 12 months for Tier 4. For good cause shown, the PSB may extend the deadline for its final determination regarding the project. See Annex 2 for details.

15. **Use 'rebuttable presumption' for ANR permits.** If an applicant obtains a permit from ANR prior to completing the CPG process, the PSB will accept that approval as a rebuttable presumption that a project that conforms to the permit and permit conditions and the project will not result in an adverse impact to the natural environment specific to the impacts identified and reviewed under that permit program. Broader resource impacts not addressed by a permit will not be subject to the presumption and the PSB may continue to consider broader resource impacts as part of the Sec. 248 process. Note that this applies only to the PSB in its fact-finder capacity and not on appeal.
16. **Ensure that the improved PSB website design incorporates a 'one-stop shop' for all siting information, and includes:** a) accessibility by all parties; b) a Frequently Asked Questions (FAQ) section written in clear layperson terminology; c) required checklists for the Simplified Tiers; d) a docket-management system to signal when new statutory timelines are met (or not); e) all ANR and PSB guidelines and standards by permit, study and by technology (including any necessary links between PSB docket numbers and ANR permit numbers and related website information); and f) access to historical docket records and orders, easily searchable (and free to the public); and g) all project monitoring reports. Note that the Commission is still discussing at what point in the pre-development phase that the public is notified that project discussions have begun.

### **Ensure Adequate Environmental – and Other – Protection**

17. **All relevant agencies (ANR, PSD, Agency of Agriculture and Department of Health) shall, to the extent feasible, update environmental protection and other standards and guidelines on a by technology basis, where necessary.** These guidelines should be made publicly available, in clear lay terminology and based on peer-reviewed scientific literature, where possible, on an improved PSB one-stop shop siting website. Given that there are several new areas of impact resulting from the siting of new generation technologies, these agencies shall determine which of these impacts fall within the following categories:
  - a. an update of existing guidelines
  - b. new guidelines that reflect additional impacts from new types of energy deployment
  - c. identification of impact for which there remains insufficient information to develop guidelines – or that are so site-specific that general guidelines are not applicable - and where the PSB must continue to rely on precedent and/or a case-by-case analysis until which time there is sufficient information to establish guidelines.

Examples of new impacts where guidance is sought include: (PSD) setbacks, noise, blasting, relative levels of efficiency; (ANR) habitat fragmentation, critical wildlife habitat, GHG and other air pollutant emissions, road construction (least intrusive and limited access), headwaters, impact on groundwater from blasting, etc.. If it is deemed that specific impact limits are determined by precedent, those precedents must be made available on the improved PSB siting website.

18. **The AAFM shall become a statutory party in the siting process** in cases where there is more than a *de minimus* impact on prime agricultural soils, soils of statewide significance or the project takes place on a farm as defined by the AAPs.
19. **DOH shall review national standards from peer-reviewed literature regarding health impacts and monitoring systems** by technology and provide guidelines, where possible, to be updated annually as science evolves. Applicants will provide public health impact assessments under Tier 2-Tier 4 projects as per 30 V.S.A. 248 (b) (5). DOH shall become a statutory party in the siting process on these issues.
20. **ANR and DPS shall develop guidelines and tools for understanding and measuring cumulative impact** to be used in the planning, application, and monitoring phases of the siting process. From this work, they will provide specific guidelines for project applicants required to provide cumulative impact assessments in Tiers 3 and 4. The PSB shall then consider these assessments when determining whether a project has an undue adverse impact or constitutes a public good.
21. **All parties shall agree on 3<sup>rd</sup> party monitoring experts to be hired/paid for by the petitioner, and overseen by the appropriate agency (ANR, PSB, DPS, Health) under bill-back for pre-construction, construction and**

post-construction phases of a project. If no agreement is reached, the PSB will order an expert. All quarterly or annual reports required in this process shall be placed on the improved PSB website (one-stop shop for siting). Overall project compliance with monitoring shall be assigned to the PSD, including public complaint responsibility. All monitoring reports and data shall be made available on the improved PSB siting website as they are received

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**Annex 1**  
**State Energy Goals and Statutory Targets for Renewable Sources**  
**(03/28/13)**

Comprehensive Energy Plan Goals and statutory targets from renewable sources	Target Date	Current Status (01/13)	Goal or Statute
90% of the state's energy needs – including thermal, transportation and electric by 25% of all energy from <i>in-state</i> , particularly from farms and forests (25 by '25)	2050 2025	~22% ~12%	CEP Goal 10 V.S.A. 579(a)
75% of annual electric sales for each retail electricity provider in Vermont by 55% of annual electric sales for each retail electricity provider in Vermont by	2032 2017	~50%	30 V.S.A. 8005(d)(4)(A)
20% of total statewide electric retail sales in 2017 shall be generated by Sustainably Priced Energy Enterprise Development (SPEED) resources that came online (or were updated) after Dec. 1, 2004. SPEED resources are long-term contracts for energy from generators that produce renewable energy, whether or not RECs are retained.	2017	~16%	30 V.S.A. 8005(d)(2)
127.5 MW of contracts provided through Standard Offer for projects <i>in-state</i> by	2022	~50 MW of contracts awarded	30 V.S.A. 8005a(c)
Reduce greenhouse gas emissions within the state and from outside the state's boundaries caused by the use of energy within the state by 50% by And, if practicable using reasonable efforts, by 75% by	2028 2050	+2%	10 V.S.A. 578(a)
Plan to generate 60MW of power <i>in-state</i> by combined heat and power (CHP) facilities powered by renewable fuels.	2028	1.2 MW	30 V.S.A. 202(i)
Source: Vermont Statutes and Department of Public Service.			



**Annex 2**  
**Proposed Simplified 4-Tier System**  
**(03/28/13)**  
**(ANR Notes in Red)**

## Tiers

The following proposed Simplified 4-Tier System attempts to address many of the concerns raised over the course of the Commission's findings with respect to public participation, transparency, guidelines, predictability, timelines and incentives for community driven projects. It is understood that this is simply a guideline for the type of tier system to be developed and that further development will require additional input from PSB, DPS and ANR.

Creation of tiers provides more clear guidance for developers and interested parties. The tiers are ranked based on the capacity of the project; however the capacity ratings are for the purposes of guidance as the specific characteristics of the site may require review under a different tier than the capacity of the project would otherwise suggest. While the Tiered approach provides a range of procedural pathways, all generation projects must address the review criteria set forth in Section 248 (b)(5).

Petitioner would submit an application to the PSB requesting review under a specific tier. **Each Tier would be accompanied by a new, expanded application form that includes a clear checklist of pre-file and filing requirements for that Tier, including any studies or resource assessments required by ANR.** The application shall describe the impacts on the natural environment, the land use characteristics of the area surrounding the project site, and the zoning/planning for the project site. The request shall be submitted to the DPS, ANR, town, regional planning commission, and adjoining landowners at the same time the request is submitted to the PSB. Any comments regarding the request shall be filed with the PSB within 10 days. The PSB shall make a determination within 21 days after receiving the request.

Clarification of the term "contested case". All Section 248, including net metering, applications are contested case proceedings. For legal purposes, contested case means that there is notice and an opportunity for hearing. This standard should not change; however, there should be clarification as to whether the process *requires* a hearing in all, or even most, cases.

### Tier 1 – Projects with a capacity of 500 kW or less

Developers are required to submit an application form that includes:

- A description of the size and the location of the project, including any distribution line upgrades necessary to interconnect the project;
- **Locator map, site plan and natural resource assessment, which at a minimum may be satisfied by the ANR Natural Resources Atlas.**
- **Certification that the project avoids any regulated natural resource impacts;**
- **Certification that applications for all necessary ANR permits have been filled.**
- For projects greater than 150 kW, certification that it has completed the necessary steps contained in PSB Rule 5.500 (Interconnection Procedures for Proposed Electric Generation Resources).
- Attestation that project affirmatively meets all of the substantive criteria contained in Section 248(b)

DPS, ANR, Town, Regional Planning Commission, and adjoining landowners have 15 days **after an application is deemed complete** to file comments as to whether the project raises a significant issue. Within 30 days of receipt of the **complete** application, the PSB shall determine whether the application raises a significant issue. If the PSB determines that the application does not raise a significant issue than a CPG shall be issued without further process (**what is the appeal process for this determination, can any party still request a hearing?**). If the PSB determines that a significant issue has been raised it shall hold a prehearing conference within three weeks of the date that it determines whether a significant issue has been raised.

If a significant issue is raised, the PSB shall make a final determination regarding the project within **three months**.

**Note: \*A new application form and checklist shall be developed for Tier 1 projects, in conjunction with ANR.**



## Tier 2 – Projects with a capacity between 500 kW and 2.2 MW

At least 45 days prior to submitting the petition to the PSB, developers must submit notice to the affected Town, Regional Planning Commission, ANR and adjoining landowners. The notice shall provide preliminary plans showing the location of the project and a brief summary of the impacts of the proposed project.

Developers are required to submit an application form and prefiled testimony that explains how the project affirmatively meets each of the substantive criteria contained in Section 248(b). In addition, the application must describe the outreach efforts undertaken by the developer and include a certification that the developer has made good faith efforts to hold a meeting with the Selectboard and Regional Planning Commission, provided all copies of comments received and a description of how the petition has addressed these comments.

Within 14 days of receiving the petition, the PSB must make a written determination of whether the application is deemed complete. If the written determination is that the application is incomplete, the Board must include a list of the items required to make the application complete. If the filing is deemed complete, the PSB must hold a public hearing within 21 days and set a period of 28 days after the public hearing for comments regarding whether the project raises a significant issue with reference to the 248 criterion. PSB has 21 days to determine if a significant issue is raised. **Regardless of the PSB determination, ANR shall retain the right in Tier 2 to request a hearing and present testimony and recommendations to the Board if ANR believes the project raises an issue under Sec. 248(b)(5).** If a significant issue is not raised, **by the PSB or ANR**, the PSB will issue a CPG without further process. If a significant issue is raised, then the PSB will hold a prehearing conference within 21 days.

If a significant issue is raised, the PSB shall make a final determination regarding the project within a **six-month** period that begins to run from the date the PSB deems the application complete. For good cause shown, the PSB may extend the deadline for its final determination regarding the project. **(NOTE: ANR to develop additional language regarding this 'safety valve' as the timelines suggested herein may not be acceptable to the ANR in all cases).**

## Tier 3 – Projects with a capacity between 2.2 MW and 15 MW

At least 60 days prior to submitting the petition to the PSB, developers must submit notice to the affected Town, Regional Planning Commission, ANR and adjoining landowners. The notice shall provide preliminary plans showing the location of the project and a brief summary of the impacts of the proposed project.

Developers are required to submit an application form and pre-filed testimony that explains how the project affirmatively meets each of the substantive criteria contained in Section 248(b). In addition, the application must include a certification that the developer has made good faith efforts to hold a meeting with the Selectboard and Regional Planning Commission, has provided all copies of comments received and a description of how the petition has addressed these comments.

Within 21 days of a petitioner filing a 248 petition, the Board shall issue a written determination of whether an application is deemed complete. If the application is deemed complete, the written determination shall set a schedule to include the date for a public hearing to be held within 21 Days, a deadline for motions to intervene set as two week after the public hearing, a deadline for responses to motions to intervene set as one week after the deadline for motions to intervene and a prehearing conference (to prevent confusion, this prehearing conference should be called a scheduling conference) to be held within 30 days after the public hearing.

The PSB shall make a determination within **nine months** of its determination that the petition is complete that begins to run from the date the PSB deems the application complete. For good cause shown, the PSB may extend the deadline for its final determination regarding the project. **(ANR to develop additional language regarding this 'safety valve' as the timelines suggested herein may not be acceptable to the ANR in all cases).**

## Tier 4 – projects greater than 15 MW

At least 90 days prior to submitting the petition to the PSB, developers must submit notice to the affected Town, Regional Planning Commission, ANR, and adjoining landowners. The notice shall provide preliminary plans showing the location of the project and a brief summary of the impacts of the proposed project.

Developers are required to submit an application form and pre-filed testimony that explains how the project affirmatively meets each of the substantive criteria contained in Section 248(b). In addition, the application must include a certification that the developer has made good faith efforts to hold a meeting with the Selectboard and Regional Planning Commission, has provided all copies of comments received and a description of how the petition has addressed these comments. In addition, applicants would provide a Public Engagement Plan (PEP) to the PSB **at least** 150 days prior to the 90 days public notice. The PEP would be based on guidelines developed by DPS (using successful public engagement models such as VELCO and NY state). DPS would designate/contract a facilitator to work with each applicant to ensure the PEP is implemented effectively.

Within 21 days of a petitioner filing a 248 petition, the Board shall issue a written determination of whether an application is deemed complete. If the application is deemed complete, the written determination shall set a schedule to include the date for a public hearing to be held within 21 Days, a deadline for motions to intervene set as two week after the public hearing, a deadline for responses to motions to intervene set as one week after the deadline for motions to intervene and a prehearing conference (to prevent confusion, this prehearing conference should be called a scheduling conference) to be held within 30 days after the public hearing.

The PSB shall make a determination within **one year** of its determination that the petition is complete that begins to run from the date the PSB deems the application complete. For good cause shown, the PSB may extend the deadline for its final determination regarding the project. **(ANR to develop additional language regarding this 'safety valve' as the timelines suggested herein may not be acceptable to the ANR in all cases).**

**Proposed Simplified Tier System – Summary Table  
(03/28/13)**

Tier	Size	Registration/Permit Process	Public Notice	Statutory Procedural Timelines	Statutory CPG Timeline
1	<500kw	Application Form* with: <ul style="list-style-type: none"> <li>Description of size &amp; location of project, including any distribution line upgrades necessary to interconnect the project;</li> <li>Completion of the ANR checklist, including a map of the project site from Biofinder and ANR Atlas</li> <li>For projects &gt;150 kW, certification that it completed the necessary steps in PSB Rule 5.500 (Interconnection Procedures for Proposed Electric Generation Resources).</li> <li>Attestation that project affirmatively meets all of the substantive criteria contained in Section 248(b)</li> </ul>	Notice at time of registration	If issue raised, hold pre-hearing conference within 21 days of the date that the PSB determines a significant issue has been raised.	Approved in 30 days, if no issues raised  3 months for final CPG determination
2	500kw-2.2MW	Application form* and pre-filed testimony with: <ul style="list-style-type: none"> <li>Explanation of how the project affirmatively meets each of the substantive criteria contained in Section 248(b).</li> <li>Description of the outreach efforts undertaken by the developer</li> <li>Certification that the developer has made good faith efforts to hold a meeting with the Selectboard(s) and RPC</li> <li>Copies of all comments received and a description of how the petition has addressed these comments.</li> </ul>	45 days prior to filing, Notice shall provide preliminary plans showing the location of the project and a brief summary of the impacts of the proposed project.	After filing: 14 days for PSB to 'deem complete' If complete, set schedule: + 21 days for public hearings + 28 days to raise issues re 248 criteria + 21 days for PSB to determine if significant issue is raised If no issue, CPG granted If issues, 21 days for prehearing conference	Approved in 12 weeks, if no issues raised  6 months for final CPG determination, with extension if due cause is demonstrated
3	>2.2MW -15MW	Application form* and pre-filed testimony with: <ul style="list-style-type: none"> <li>Explanation of how the project affirmatively meets each of the substantive criteria contained in Section 248(b).</li> <li>Description of the outreach efforts undertaken by the developer</li> <li>Certification that the developer has made good faith efforts to hold a meeting with the Selectboard(s) and RPC</li> <li>Copies of all comments received and a description of how the petition has addressed these comments.</li> </ul>	60 days prior to filing Notice shall provide preliminary plans showing the location of the project and a brief summary of the impacts of the proposed project.	After filing: 21 days for PSB to 'deem complete' If complete, set schedule: + 21 days for public hearings + 14 days for motions to intervene + 7 days for responses to motions and a scheduling conference (+ 30 days after public hearing for scheduling conference)	9 months for final CPG determination, with extension if due cause is demonstrated
4	>15 MW	Application form* and pre-filed testimony with: <ul style="list-style-type: none"> <li>Explanation of how the project affirmatively meets each of the substantive criteria contained in Section 248(b).</li> <li>Description of the outreach efforts undertaken by the developer</li> <li>Certification that the developer has made good faith efforts to hold a meeting with the Selectboard(s) and RPC</li> <li>Copies of all comments received and a description of how the petition has addressed these comments.</li> </ul>	150 days prior to notice, applicant provides Public Engagement Plan to PSB, 90 days Notice shall provide preliminary plans showing the location of the project and a brief summary of the impacts of the proposed project.	After filing: 21 days for PSB to 'deem complete' If complete, set schedule: + 21 days for public hearings + 14 days for motions to intervene + 7 days for responses to motions and a scheduling conference (+ 30 days after public hearing for scheduling conference)	12 months for final CPG determination, with extension if due cause is demonstrated

\*Application form templates & checklists for each Tier shall be developed by PSB in conjunction with ANR and reference any maps, studies or resource assessments ANR requires for that Tier.

**Annex 3**  
**Potential Cost and Funding Categories**  
**Related to EGSPC Recommendations**

Potential Cost Categories			
Potential Cost Item	Initial Cost	Recurrent Cost	As Needed
State Planning/Scenario	X		
RPC Plans	X (est. \$300,000)	X (est. \$10,000)	
Website Improvements/On-line Docketing	X		X
Case Manager		X	
ANR Guidelines & Checklists	X		
PSD Facilitator and Compliance Monitoring		X	
RPC Funding Support as Statutory Party (on a cost-share basis)			X
3 <sup>rd</sup> Party Monitors		X	
Selected studies			X

Potential Funding Categories			
Type of Potential Funding Source	One time	Recurrent	As Needed
Filing Fee (per MW)	X		
General Receipts Tax (merchant generators)		X	
Bill-back authority for agencies			X
Bill-back for RPCs (on cost-share basis)			X