

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6290

Investigation into the establishment of guidelines)
for distributed utility planning by Vermont)
electric distribution utilities)

Order entered: 9/28/2001

I. INTRODUCTION

The Vermont Department of Public Service ("DPS") has asked the Public Service Board ("Board") to approve several documents related to the agreement of Barton Village Inc. Electric Department ("Barton"), Village of Enosburg Falls Water & Light Department ("Enosburg"), Village of Jacksonville Electric Department ("Jacksonville"), Village of Ludlow Electric Light Department ("Ludlow"), Village of Lyndonville Electric Department ("Lyndonville"), Village of Northfield Electric Department ("Northfield"), Village of Orleans Electric Department ("Orleans"), Town of Readsboro Electric Light Department ("Readsboro"), Town of Stowe Electric Department ("Stowe"), and Swanton Village Inc. Electric Department ("Swanton")¹ to the Phase I Stipulation² approved by the Board in its March 7, 2001, Order in this Docket. These documents include signature pages for the Phase I Stipulation and an associated bilateral

1. These utilities are referred to collectively herein as the "10 Municipal Utilities".

2. The Phase I Stipulation contains various provisions including, among other things, agreement on initial distributed utility planning guidelines that will be followed by electric utility signatories during Phase II of this Docket, and agreement on further collaborative discussions (referred to herein as the "Phase II Collaborative") that will address various issues outlined in a Work Plan that is Attachment B to the Stipulation. The Phase I Stipulation is described in more detail on pages 5-10 of the Board's 3/7/01 Order in this Docket.

The initial signatories of the Phase I Stipulation were the DPS, the City of Burlington Electric Department, Central Vermont Public Service Corporation, Citizens Utilities Company, Green Mountain Power Corporation, Vermont Electric Cooperative, Inc., the Vermont Marble Division of OMYA, Inc., and Washington Electric Cooperative, Inc. With the addition of the 10 Municipal Utilities, all Vermont electric utilities except for the Town of Hardwick Electric Department, the Village of Hyde Park Electric Department, the Village of Johnson Water & Light Department, the Village of Morrisville Water & Light Department, and Rochester Electric Light and Power Company have signed the Phase I Stipulation.

agreement between each utility and the DPS.³ No party has opposed approval of these documents.

In this Proposal for Decision, I recommend that the Board approve the addition of the 10 Municipal Utilities to the Phase I Stipulation and all of the new bilateral agreements in their entirety. I also recommend that the Board require the 10 Municipal Utilities to accept the current schedule for the Phase II Collaborative, as established by my Procedural Order of May 2, 2001.

II. PROCEDURAL HISTORY

The early procedural history for this docket is described in the Board's March 7, 2001, Order in this docket and need not be repeated in detail here.⁴

On July 5, 2001, Northfield filed a signature page for the Phase I Stipulation and an associated bilateral agreement between itself and the DPS.

On July 19, 2001, the DPS filed signature pages for the Phase I Stipulation for Barton, Enosburg, Ludlow, Lyndonville, Orleans, Readsboro, Stowe, and Swanton. Included in that filing were associated bilateral agreements between the DPS and each utility.

On July 24, 2001, the DPS filed a signature page for the Phase I Stipulation and an associated bilateral agreement between itself and Jacksonville.

III. FINDINGS

1. Each municipal utility bilateral agreement includes a list of known study areas (if any currently exist) where distributed utility planning ("DUP") may make a difference in the selected strategy to remedy a significant transmission and distribution ("T&D") supply problem. Each

3. These documents will be admitted into the record as follows, unless a party objects to their admission prior to August 17, 2001: all signature pages will be incorporated into exh. Joint-1 (the main body of the Phase I Stipulation); the DPS-Barton Bilateral Agreement will be exh. Joint-11; the DPS-Enosburg Bilateral Agreement will be exh. Joint-12; the DPS-Jacksonville Bilateral Agreement will be exh. Joint-13; the DPS-Ludlow Bilateral Agreement will be exh. Joint-14; the DPS-Lyndonville Bilateral Agreement will be exh. Joint-15; the DPS-Northfield Bilateral Agreement will be exh. Joint-16; the DPS-Orleans Bilateral Agreement will be exh. Joint-17; the DPS-Readsboro Bilateral Agreement will be exh. Joint-18; the DPS-Stowe Bilateral Agreement will be exh. Joint-19; the DPS-Swanton Bilateral Agreement will be exh. Joint-20. If an objection is received, it will be ruled upon forthwith.

Collectively, these documents are referred to herein as the "Municipal Bilateral Agreements".

4. Order of 3/7/01 at 2-5.

utility signatory will monitor growth, propose adjustments to its list, and apply the initial DUP guidelines to any service areas in which developments relating to T&D supply problems warrant applying the guidelines. Exh. Joint-11 through Joint-20 at ¶ 2.

2. Each municipal utility bilateral agreement clarifies certain language included in Paragraph 14 of the Phase I Stipulation. This paragraph states that electric utilities will not implement or threaten to implement any policy, program, rule, charge, fee, business practice, technical requirement, or other requirement regarding the ownership, interconnection, operation, selection, application, testing, metering, or other matter related to DUP resources that rationally could be expected to unreasonably and materially delay, hamper, or interfere with the full and effective acquisition of cost-effective DUP resources. The clarifications in the municipal utility bilateral agreements relate to the standards that will be used to evaluate a municipal utility's actions or proposed actions under Paragraph 14 of the Phase I Stipulation. Exh. Joint-11 through Joint-20 at ¶ 4.

3. Each municipal utility bilateral agreement provides that if, in implementing the initial DUP guidelines (Attachment A to the Phase I Stipulation), the municipal utility uses a value that is not specified by the initial guidelines, the municipal utility will not be considered to have violated paragraphs one and three of the Phase I Stipulation due solely to the use of such value if such use has a rational basis. Exh. Joint-11 through Joint-20 at ¶ 5.

4. Each municipal utility bilateral agreement states that nothing in the Phase I Stipulation, the initial DUP guidelines, or each bilateral agreement, alters the effectiveness of the paragraph in the bilateral agreement in Docket 5980 between the DPS and the particular municipal utility which states that, until the externalities adder is resolved through the collaborative process in this docket or by a Board order, the municipal utility will use the five percent externalities adder as set out in Docket 5270 for DUP demand-side management. Exh. Joint-11 through Joint-20 at ¶ 6.

IV. DISCUSSION AND CONCLUSION

The merits of the various provisions of the Phase I Stipulation are discussed at length in the Board's March 7, 2001, Order in this Docket, and I will not repeat that discussion here. Instead, I will simply note that the Board found:

Approval of the Phase I Stipulation is in the public interest because (a) it includes agreements on substantial procedures and techniques that will achieve cost savings within the service territories of the signatory utilities; (b) it clarifies signatory utilities' DUP obligations pursuant to 30 V.S.A. § 218(c) and the Docket 5980 Memorandum of Understanding; and (c) it includes the first-ever inventory of T&D areas that are, or are expected to be, constrained and in need of particular attention to achieve least-cost solutions.⁵

I find that approval of the documents under consideration in this Report is in the public interest because the documents expand the scope of these three benefits. First, the documents create an opportunity for cost savings from the Phase I Stipulation's agreements on various procedures and techniques in ten additional service territories. Second, ten additional utilities' DUP obligations have been clarified. Third, ten additional utilities have examined their service territories and added appropriate areas to the existing inventory of T&D areas that are, or are expected to be, constrained.

There is one more reason why approval of the documents under consideration in this Report is in the public interest — the additional signatories to the Phase I Stipulation will be additional participants in the Phase II Collaborative in this Docket. Currently, the Phase II Collaborative is a structured negotiation among the DPS and seven electric utilities. The Collaborative is addressing a variety of complex issues associated with DUP, as described in the Work Plan (Attachment B to the Phase I Stipulation), and the "guideline schedule" which the Phase II Collaborative participants filed with the Board on June 27, 2001. The addition of the 10 Municipal Utilities to the Phase II Collaborative will enhance the quality of that dialogue.

The Municipal Bilateral Agreements do include three provisions that were not in the other bilateral agreements approved in the Board's March 7, 2001, Order in this Docket. These provisions clarify certain language in the Phase I Stipulation regarding a municipal utility's obligations under the Stipulation. These provisions are helpful clarifications and do not alter the significant benefits that will be provided by the addition of ten new signatories to the Phase I Stipulation.

Therefore, I recommend that the Board approve the addition of the 10 Municipal Utilities to the Phase I Stipulation, and the 10 Municipal Bilateral Agreements in their entirety. I also

5. Order of 3/7/01 at 10 (Finding 16).

recommend that the Board explicitly state that the 10 Municipal Utilities must accept the current schedule for the Phase II Collaborative (an end date of June 1, 2002, with status reports to be filed on the last working day of every other month).⁶

This Proposal for Decision has been served on all parties to this proceeding in accordance with 30 V.S.A. § 811.

DATED at Montpelier, Vermont this 5th day of September, 2001.

s/Ann Thompson
Ann Thompson
Hearing Officer

6. See the 5/2/01 Procedural Order in this Docket for more information on these scheduling matters.

V. BOARD DISCUSSION

On August 10, 2001, the DPS filed documents related to the agreement of the Village of Hyde Park Electric Department ("Hyde Park") to the Phase I Stipulation approved by the Board in its March 7, 2001, Order in this Docket.⁷ These documents include a signature page for the Phase I Stipulation and an associated bilateral agreement between Hyde Park and the DPS.⁸ The bilateral agreement is identical in substance to the 10 Municipal Bilateral Agreements which the Hearing Officer recommended we approve.⁹

The DPS, in its comments on the Hearing Officer's Proposal for Decision, recommended that the Board approve the Hyde Park documents on the same terms as the Hearing Officer proposed for the documents relating to the 10 Municipal Utilities. The DPS stated that Central Vermont Public Service Corporation, the City of Burlington Electric Department, and the Vermont Marble Power Division of OMYA, Inc. concurred with this recommendation, and that no other party responded to the draft of the DPS's comments that was circulated to all Phase II Collaborative participants.

We are persuaded that the rationale articulated by the Hearing Officer in her Proposal for Decision supporting approval of the documents for the 10 Municipal Utilities also applies to approval of the Hyde Park documents. Therefore, since approval of the Hyde Park documents on the same terms as the documents for the 10 Municipal Utilities is not adverse to any party, we hereby approve the Hyde Park signature page and bilateral agreement.

7. This was subsequent to the issuance of the Hearing Officer's Proposal for Decision, but prior to the deadline for filing comments on the Proposal for Decision.

8. These documents will be admitted into the record as follows, unless a party objects to their admission in a motion for reconsideration: the signature page will be incorporated into exh. Joint-1 (the main body of the Phase I Stipulation); the DPS-Hyde Park Bilateral Agreement will be exh. Joint-21. If such a motion is received, it will be ruled upon forthwith.

9. The only difference among any of the 10 Municipal Bilateral Agreements and the Hyde Park bilateral agreement relates to whether the utility's service territory includes any known DUP study areas.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and recommendations of the Hearing Officer are adopted.

2. The addition of Barton Village Inc. Electric Department, the Village of Enosburg Falls Water & Light Department, the Village of Hyde Park Electric Department, the Village of Jacksonville Electric Department, the Village of Ludlow Electric Light Department, the Village of Lyndonville Electric Department, the Village of Northfield Electric Department, the Village of Orleans Electric Department, the Town of Readsboro Electric Light Department, the Town of Stowe Electric Department, and Swanton Village Inc. Electric Department (collectively, the "11 Municipal Utilities") to the Phase I Stipulation is approved.

3. The 11 new bilateral agreements between the Vermont Department of Public Service and each of the 11 Municipal Utilities are approved in their entirety.

4. The 11 Municipal Utilities shall be bound by the current schedule for the Phase II Collaborative, as established by the Hearing Officer's May 2, 2001, Procedural Order.

5. This Docket is remanded to the Hearing Officer for future proceedings.

Dated at Montpelier, Vermont, this 28th day of September, 2001.

s/Michael H. Dworkin)

) PUBLIC SERVICE

s/David C. Coen)

) BOARD

s/John D. Burke)

) OF VERMONT

OFFICE OF THE CLERK

FILED: September 28, 2001

ATTEST: s/Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or mail) of any technical errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)