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March 25, 2016

Ms. Judith Whitney
Clerk
Vermont Public Service Board
Peoples United Bank Building,
112 State St.
Montpelier VT 05620-2701

Re: Board's Request for Comment in Docket Nos. 8641, 8642, 8643 & 8645

Dear Ms. Whitney:

On March 17, 2016, the Board issued an order seeking recommendations from the parties as to how to proceed with these matters in the context of potential disruption. On behalf of my clients in Docket Nos. 8641, 8642 and 8643, I submit this response.

First, I wish to respond to the statement in the order that the Board has concerns about the "safety" of all participants. Another consideration raised is maintaining an orderly process for the proceedings. As to the safety issue, however, I wish to note that throughout the course of the Vermont Gas Systems litigation, there have been many protests. Protests have occurred at the Board's hearings and at construction sites and elsewhere in the planned right of way. I have been present as counsel for a party at almost all of the proceedings at which protests have occurred. I have read I think all of the media accounts of the protests at the construction sites and right of way sites. *Never* has there been *any* deliberate act of violence or intimidation.

In my view, and that of my clients, the protesters are trying to peacefully raise legitimate concerns about approval and construction of fossil fuel infrastructure at a time when the scientific consensus tells us that continued reliance on fossil fuels, including natural gas, is causing an unprecedented and horrifying risk to the future of the earth. The protesters believe that here in Vermont we have reasonable alternatives to continued reliance on fossil fuels, and that we are morally bound to choose those alternatives. One may disagree with the protesters' views on the efficacy or style of their protests, but I think it ill serves reasonable public debate about this terribly important subject to suggest that their actions have been tainted by threats of violence.

As to maintaining order during the proceedings, of course the Board must take whatever steps are necessary. But the Board's response should not have the effect of limiting peaceful public observation of and debate about the Board's proceedings. I was surprised to see that the order suggested that one possible response would be to close the proceedings to members of the general public. That would be inappropriate under the

First Amendment, Chapter 1, Article 6 of the Vermont Constitution, and the Open Meetings Law. Any member of the public who disrupts the proceedings can be removed by law enforcement. There is no legitimate reason to exclude members of the public who do not disrupt the proceedings.

It is fair to say that direct observations of the Board's proceedings over the past few years by many members of the public, in this and many other cases, has led to much greater awareness of and debate about the Board's procedures and the public policy issues before the Board. While the media often does an excellent job of reporting, the media are no substitute for direct public observation. Exclusion of the general public would impermissibly chill debate about these important matters.

My own observations over the course of the pipeline litigation have been that on many occasions throughout the process members of the public who wished to observe Board proceedings could not fit into the hearing room. They had to stand in the hallway, where one cannot see the witnesses or hear anything that goes on in the hearing room. We can expect that public interest to continue. I ask therefore that the proceedings be moved to a larger room so that all persons who wish to peacefully observe the proceedings can do so.

Please thank the Board for allowing us this opportunity to comment.

Sincerely,

James A. Dumont
James A. Dumont, Esq.

cc: service list by email