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Prefiled Rebuttal Testimony  
of  
William Steinhurst

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8 **Q1. PLEASE STATE YOUR NAME AND OCCUPATION.**

9 A1. My name is William Steinhurst, and I am a Senior Consultant with Synapse  
10 Energy Economics (Synapse). My business address is 45 State Street, #394,  
11 Montpelier, Vermont 05602.

12

13 **Q2. ARE YOU THE SAME WITNESS WHO PROVIDED PREFILED DIRECT**  
14 **TESTIMONY ON BEHALF OF CONSERVATION LAW FOUNDATION?**

15 A2. Yes.

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17 **Q3. ON WHOSE BEHALF IS YOUR REBUTTAL TESTIMONY OFFERED?**

18 A3. I prepared this testimony on behalf of the Conservation Law Foundation.

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20 **Q4. PLEASE SUMMARIZE YOUR TESTIMONY.**

21 A4. My testimony provides an evaluation of the broader structural issues in the  
22 proposals that have been presented by other parties in light of the goals the  
23 Vermont Public Service Board (Board) set out for this proceeding. I will address  
24 the failure of the Department of Public Service's (DPS) recommendations to

1 address identified shortcomings with the current structure and will address the  
2 additional problems that would be created by the DPS recommendation. I will  
3 also identify shortcomings in the recommendations of IBM, AIV and GMP and  
4 conclude that adopting a structure in line with the recommendations of CLF,  
5 VEIC, or CVPS and with a term length as proposed by CLF and VEIC will  
6 provide the most benefits for Vermont ratepayers.

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8 **Q5. PLEASE PROVIDE AN OVERVIEW OF THE EFFECTIVENESS,**  
9 **SUPPORT AND JUSTIFICATION FOR THE VARIOUS PROPOSALS.**

10 A5. As I identified in my prefiled direct testimony, the current structure is problematic  
11 in significant areas, as first noted by the Board in its “Revised Task Statement for  
12 Discussion of EEU Structure” of August 14, 2007. The three-year contract cycle  
13 limits the effectiveness of the EEU in playing a role in long-term resource  
14 acquisition and forecasting for Vermont. The contractual relationship between  
15 the EEU and the Board limits the EEU’s ability to fully and independently  
16 participate in regulatory proceedings, and hinders the Board’s ability to exercise  
17 its proper role as an independent regulator in matters related to the EEU.

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19 The recommendations of AIV and IBM fail to address any of these shortcomings  
20 as they propose keeping the existing structure. Neither IBM nor AIV have  
21 provided factual bases to support their recommendations which are presented  
22 largely as cursory policy conclusions.

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The recommendations of the DPS, which are supported by GMP and VELCO, fail

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to address the shortcomings of the short contract period and in fact exacerbate

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some of the shortcomings. Those parties propose burdensome, unsupported, and

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unnecessary administrative activity that would reduce the value of energy

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efficiency services that could be provided. They fail to recognize the success of

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the existing program. Those proposals would create new hurdles to further

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improvement and would reduce the role of the Board as a source of independent

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oversight and is a move away from transparency in that, for example, it places

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more decisions in the hands of the DPS rather than leaving them before the Board

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in open hearing. The proposed changes would not enhance decision-making that

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is supported by experience, data, and facts. Review processes that fail on that

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score would work against stability for the EEU's program planning and

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implementation, a value that was recognized at the birth of the EEU as critical to

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its success (and that of DSM programming, generally, for that matter).

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17 **Q6. PLEASE ADDRESS THE SHORTCOMINGS OF THE DPS'S ROLLING**  
18 **APPOINTMENT STRUCTURE.**

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A6. The rolling appointment structure proposed by the DPS provides only cosmetic

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benefit compared to the existing three-year contract in terms of effectiveness of

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the EEU in providing long-term resource acquisition and forecasting for Vermont.

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It maintains the objective conditions that promote a problematic short-term focus

1 for investments and planning, imposes additional costs, and creates an added  
2 problem should an order of appointment need to be ended.

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4 **Q7. PLEASE EXPLAIN.**

5 A7. The DPS proposal effectively provides for the same three or six-year term as  
6 currently exists under the existing contract model. A review would occur every  
7 three years that would decide whether the term would be extended. Functionally,  
8 that would be a three-year term with the possibility of renewal, just like the  
9 structure in place now. It would be a six-year appointment in name only and  
10 would, in effect, encourage planning and investment for a three-year time horizon.

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12 Even if those problems did not exist in the DPS proposal, the DPS fails to support  
13 or justify limiting the appointment to six years. The Department recognizes the  
14 shortcomings of the current short contract period, but provides only a bald claim  
15 that a longer appointment would not reasonably mitigate risk. That claim is, in  
16 fact, not only unsupported but wrong as well. The oversight provided through  
17 CLF's proposed budget process and performance reviews, along with the  
18 opportunity to terminate an appointment for lack of performance, provides ample  
19 risk mitigation. The EEU has responsibility for far fewer ratepayer funds than  
20 any of Vermont's electric utilities. Good oversight and strong and effective  
21 performance standards are critical, but the Department's proposal would add cost,  
22 uncertainty and administrative burden every three years while doing nothing to

1 ensure Vermont ratepayers will get the most low cost energy efficiency that is  
2 available.

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4 The DPS rolling appointment unnecessarily creates an entirely new problem that  
5 does not exist now. If an appointee is performing poorly, the DPS  
6 recommendation would allow that appointee to continue to provide services for an  
7 additional eighteen months to two years. While this arguably provides stability  
8 for the EEU, it is not good for ratepayers. An EEU that knows its appointment  
9 will not be extended has reduced motivation to continue to provide good service.  
10 An effective model would allow performance problems to be corrected in a short  
11 period of time and allow a timely revocation of an appointment if warranted.

12  
13 **Q.8 WOULD THE DPS RECOMMENDATION IMPROVE THE EEU'S**  
14 **ABILITY TO PARTICIPATE IN THE FORWARD CAPACITY**  
15 **MARKET?**

16 **A.8** No. The DPS acknowledges that there are no real benefits beyond the first few  
17 years. An effective new model should encourage and facilitate participation in  
18 the forward capacity market (FCM) and allow the EEU, as all other utilities, to  
19 base participation on the five-year value of its investments. The current five-year  
20 term and bidding for the FCM does not match well with the Department's  
21 proposed six-year term nor with its accompanying triennial uncertainty. That  
22 mismatch would continue to encourage short-term decision-making and

1 discourage investment and bidding of longer-term capacity savings that would  
2 significantly benefit Vermont.

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5 **Q.9 ARE IBM'S AND AIV'S RECOMMENDATIONS JUSTIFIED?**

6 A.9 No. The testimonies of both parties provide broad policy recommendations that  
7 are supported neither by the existing EEU's sustained best-in-class performance  
8 nor any justification based on business theory or experience.

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10 While IBM and AIV mix the discussion of the issue of appointment vs. contract  
11 and the issue of term length, it appears that their arguments in favor of frequent  
12 competitive bidding are that it is necessary to:

- 13 (1) to ensure that the job remains in the hands of the best candidate;
- 14 (2) to ensure that the EEU function adapts swiftly to an expected revolution in  
15 the nature of the industry (apparently due to deployment of smart grid  
16 technology);
- 17 (3) to ensure that the EEU does not become "complacent," "lack innovation,"  
18 and has "adequate incentives for strong performance and continuous  
19 improvement," or "the appropriate level of financial risk for  
20 underperformance."

21 As a former utility regulator, I might fantasize about requiring every electric  
22 utility in the state to compete to retain its franchise every three years. However,

1 the closest that Vermont comes to that is the franchise renewal process for cable  
2 television providers where the lifetime is in excess of a decade. I was the State's  
3 technical lead responsible for policy issues in a major franchise renewal case here  
4 in Vermont. In my opinion, that was a valuable and wise process to put in place,  
5 but there is little benefit and quite a bit of risk in trying to do that at the frequency  
6 proposed by AIV, IBM and DPS. Regarding swift adaptation to changes in the  
7 industry and proper aggressiveness and incentives for innovation, the various  
8 cyclic oversight processes are of the right kind and intensity to meet that need. I  
9 would remind the Board that it took the DPS only a few years of dissatisfaction  
10 with electric utility DSM administration to cause the EEU to come into existence  
11 in the first place, even though the decision to assign that job to the utilities was  
12 thought of as a *permanent* appointment. In sum, the Board can be comfortable  
13 that the proposed new term is reasonable, will be beneficial, and will not entail  
14 undue risks to performance or cost-effectiveness.

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16 As to the contract vs. appointment issue, the arguments seem to be that an Order  
17 of Appointment cannot ensure:

- 18 (1) least cost delivery of EE service;
- 19 (2) consideration of possible "new innovative ideas from other potential  
20 suppliers"; or
- 21 (3) cost savings.

1 It is not obvious why an Order of Appointment of a given term joined with  
2 appropriate performance incentives is any less likely to deliver least cost service,  
3 innovation, or cost savings than a contract of the same term with the same  
4 incentives. In my opinion, either is equally capable of doing so, but a contract  
5 cannot solve the structural problems that CLF's and VEIC's proposal addresses.

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7 In addition, AIV argues that "the growing complexity of EEU programs and  
8 services" does not require changing to an appointment model because AIV has  
9 not seen evidence that this is true, that a longer term than three years is not seen in  
10 the private sector, and that long-standing concerns with administrative costs,  
11 transparency and accountability of the EEU exist and call for an IPA. AIV may  
12 not have seen events that indicate the contract model is problematic, but others  
13 with first hand experience have. While it is correct that many private sector  
14 service contracts are for three years or so, that is beside the point; the EEU was  
15 intended to be and should become more like a utility than a private fee for service  
16 contractor. We learn with experience that we need to do a better job of emulating  
17 that type of organization. Further, there are many examples of actual or proposed  
18 long-term engagement of various entities to perform tasks desired by government.  
19 As one of the people charged with scrutinizing EEU performance for a number of  
20 years, I am know first hand that AIV's concerns about administrative costs,  
21 transparency, and accountability on the part of the EEU are without merit.  
22 Compared to Vermont's existing utilities, the EEU has been a model of

1 transparency and accountability. When the EEU was formed, for example, it  
2 implemented each and every evaluation, monitoring and verification (EM&V),  
3 data tracking and cost accounting process and format I requested without fail.

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5 In sum, the Board should not follow AIV and IBM's recommendations for  
6 retaining the status quo ante regarding contract type and term. They are simply  
7 saying, "don't bother fixing the problems that led the Board to open this  
8 proceeding; just let those problems fester." As a matter of substance they have not  
9 identified compelling facts that would support their proposals. In fact, the facts  
10 presented and the prolonged, world-class performance of the EEU support a  
11 contrary conclusion.

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13 **Q.10 IS AN OVERALL PERFORMANCE ASSESSMENT (OPA) NEEDED**  
14 **PRIOR TO THE FIRST ORDER OF APPOINTMENT?**

15 A.10 No. The success and past experience of the EEU demonstrate that a new and  
16 cumbersome OPA is not needed before the first appointment is made.

17 Undertaking an OPA before making an appointment would delay the appointment  
18 and all the attendant benefits of a new model. It is not necessary because the EEU  
19 have already demonstrated a history of exceptional performance based on a  
20 variety of measures. I have recently participated in a number of DSM  
21 rulemakings or goal setting proceedings in various states (e.g., New Hampshire,  
22 Massachusetts, Oklahoma, Mississippi, Florida, Virginia and California). It is my

1 experience that Vermont's EEU performance to date is the envy of DSM  
2 supporters and a spectre haunting DSM opponents across the nation. It is absurd  
3 to contend otherwise. The Initial OPA proposal would create a presumption of  
4 poor performance (or, at least, a presumption that there is doubt about  
5 performance) and more than likely defeat its supposed goal of "building public  
6 confidence." The natural public perception would be "where there is smoke, there  
7 must be fire."

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9 The DPS's claim that an OPA is needed as this provides a similar review as is  
10 provided for utilities that move to alternative regulation is without merit. The  
11 EEU already must meet strict performance standards and undergo review of its  
12 programs and commitments associated with its budget. These proceedings are as  
13 stringent as any review of the performance of other Vermont utilities. and are  
14 sufficient to ensure good performance in the future.

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16 **Q.11 THE DPS PROPOSES THAT IT DETERMINE WHEN AN OPA SHOULD**  
17 **BE SKIPPED. IS THAT REASONABLE?**

18 A.11 This recommendation is not sound policy and is contrary to the norm in existing  
19 utility regulation. Instead of trying to "burst the bubble" of a presumption as is the  
20 norm, the Department would be trying to prove a negative, a project even the  
21 most DSM-supportive entity might shy away from. Standard practice in utility  
22 regulation is to require a demonstration that proof *is* needed, not a demonstration

1 that proof is *not* needed. It creates a presumption that a cumbersome assessment  
2 is needed and vests too much authority in the DPS to allow this process to go  
3 forward simply by its inaction. It also rewards the DPS for what it acknowledges  
4 is its own poor regulatory oversight. Oversight should be based on performance.  
5 If the DPS or any other entity knew or should have known that performance was  
6 poor, it would have had the ability to petition the Board for review.

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8 **Q.12 DO YOU AGREE WITH RECOMMENDATIONS REGARDING**  
9 **DISPOSITION OF ADDITIONAL FUNDING THAT MAY BE OBTAINED**  
10 **BY THE EEU?**

11 A.12 No. When the EEU budget has been established, it was recognized that additional  
12 energy efficiency is available and cost effective. The Board failed to order a  
13 higher budget because of its concerns about rate impacts. Consistent with  
14 Vermont law that requires the EEU budget to be set at a level that will acquire all  
15 reasonably available cost effective energy efficiency, any additional funds should  
16 be used to acquire additional cost effective energy efficiency. This has two  
17 benefits. It would acquire additional low cost resources when compared to supply  
18 options. It would also create an incentive for the EEU to seek additional funds.  
19 The EEU is in the best position to determine what funds are available and how  
20 they can be obtained. The new model should provide encouragement for the EEU  
21 to actively work to obtain additional funds that will lower electricity costs for  
22 everyone.

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2 **Q13. DOES THAT CONCLUDE YOUR TESTIMONY?**

3 A13. Yes, at this time.