

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-4311-INV

Investigation pursuant to 30 V.S.A. §§ 30 and 209 into whether Deerfield Wind, LLC violated conditions of its certificate of public good pertaining to blasting during construction of its wind electric generation facility in Searsburg and Readsboro, Vermont	
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Order entered: 04/04/2018

ORDER RE: HEARING OFFICER REPORT

I. INTRODUCTION

In this report, I recommend that the Vermont Public Utility Commission (“Commission”) grant the stipulated motion to close this investigation (“Motion”) filed on February 14, 2018, by Deerfield Wind, LLC (“Deerfield”) and Francis Candiloro. Therefore, I recommend that the Commission issue an order consistent with the request of the parties and close this proceeding.

II. PROCEDURAL HISTORY

In Docket No. 7250, the Commission issued to Deerfield a certificate of public good (“CPG”) on April 16, 2009, and an amended CPG on July 17, 2009, authorizing the construction of a 15-turbine wind electric generation facility at Route 8 in Searsburg and Readsboro, Vermont (the “Project”). The CPG conditions specified, among other things, that: (a) Deerfield was required to develop a blasting plan that included provisions for nearby landowners to request pre-blast surveys of structures and wells, and (b) in the event surrounding landowners expressed concern regarding the impacts of blasting on their wells or other structures on their property, Deerfield would be required to perform an evaluation of whether the damage resulted from blasting for the Project, and if so, to remediate any such damage.

On April 29, 2016, the Commission approved Deerfield’s blasting plan.

Blasting for the Project generally occurred on numerous days from October 2016 through March 2017, as indicated in blasting logs provided by Deerfield.

On July 28, 2017, Mr. Francis Candiloro filed a complaint¹ with the Commission seeking repairs to alleged blasting damages at his home. The complaint alleged that Deerfield's blasting contractor failed to follow the required procedures for conducting a pre-blasting survey at Mr. Candiloro's property, that blasting conducted for the Project resulted in damages to his property, and that the blasting contractor refused to acknowledge that the damages were caused by the blasting.

On November 8, 2017, the Commission opened an investigation in this matter and appointed me to serve as the hearing officer.

On November 17, 2017, I held a prehearing conference to discuss process and schedule for the investigation. The parties agreed upon a schedule that provided an opportunity for Mr. Candiloro and Deerfield to reach a settlement agreement.

On February 14, 2018, Deerfield and Mr. Candiloro filed the Motion requesting that the Commission close the investigation.

On March 8, 2018, the Vermont Department of Public Service ("Department") filed comments stating that it supports the Motion to close the investigation.

No other comments were filed.

III. DISCUSSION AND CONCLUSION

The Motion states that the signatories have entered into a confidential settlement agreement and have agreed to resolve the matter without further investigations or determinations regarding alleged CPG violations. The Motion stipulates that Mr. Candiloro withdraws his appearance and his status as a party in this proceeding; that the parties request that the Commission close the investigation without further proceedings, findings, or conclusions concerning the alleged blasting violations; and that the Motion not be deemed an admission of fact, liability, or wrongdoing by Deerfield in connection with alleged CPG violations.

I have reviewed the terms of the Motion and recommend that the Commission accept it. This recommendation is based on the fact that no party to date has presented clear evidence of a violation of the CPG. Had such information been presented in this proceeding I would have

¹ Mr. Candiloro first filed a complaint with the Vermont Department of Public Service's Consumer Affairs and Public Information Division ("CAPI"). CAPI conducted an investigation from May through July, 2017, which concluded with CAPI recommending that Mr. Candiloro file a formal complaint with the Commission.

recommended that the Commission conduct such further process necessary to determine an appropriate penalty under 30 V.S.A. § 30. However, I believe that the Motion represents a reasonable balance between the interests of the parties, and the Motion is in the public interest because it provides resolution for Mr. Candiloro without the need for a hearing.

Additionally, Project construction activities, including blasting, have been completed, and I am not aware of any other blasting complaints filed with the Department or the Commission for which resolution of outstanding compliance questions would be relevant.

Accordingly, I recommend that the Commission issue an order consistent with the request of the parties and close the proceeding.

Deerfield and Mr. Candiloro waive their rights under 3 V.S.A. § 811 to file written comments or present oral argument with respect to any proposal for decision provided such proposal for decision proposes that the Commission grant the requested relief. Because this hearing officer report is consistent with the requested relief and is not adverse to any party, it has not been circulated for comment.

A handwritten signature in cursive script that reads "Monica Stillman". The signature is written in dark ink and is positioned above a horizontal line.

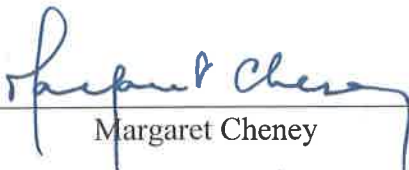
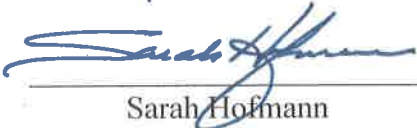
Monica Stillman
Hearing Officer

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission that:

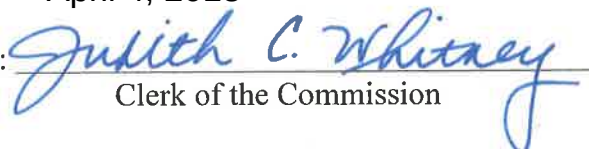
1. The report of the hearing officer is accepted.
2. The motion to close the investigation is granted.
3. This case shall be closed.

Dated at Montpelier, Vermont, this 4th day of April, 2018.

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	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: April 4, 2018

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 17-4311-INV - SERVICE LIST

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