

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-2952-PET

Petition of Georgia Mountain Community Wind, LLC requesting a non-substantial change determination in connection with land conservation requirements at the Georgia Mountain Community Wind Project	
---	--

Order entered: 09/21/2018

ORDER GRANTING REQUEST FOR NON-SUBSTANTIAL CHANGE DETERMINATION

I. INTRODUCTION

On June 11, 2010, the Vermont Public Utility Commission (“Commission”) issued an order and certificate of public good (“CPG”) to Georgia Mountain Community Wind, LLC (“GMCW”) authorizing the construction and operation of a wind-powered electric generation facility on Georgia Mountain in the Towns of Milton and Georgia, Vermont (the “Project”).

Condition 26 of the CPG required GMCW to file a proposal for Commission review and approval to conserve lands in the Project area as described in the portion of the order addressing rare and irreplaceable natural areas (the “conservation proposal”).

On March 24, 2011, GMCW filed its conservation proposal pursuant to Condition 26 of the CPG.

On May 13, 2011, the Commission issued an order approving the conservation proposal.

On August 20, 2018, GMCW filed a petition seeking a non-substantial change determination from the Commission regarding certain changes to the conservation proposal. In the alternative, GMCW requests that the Commission approve the updated conservation proposal based on the accompanying prefiled testimony and supporting exhibits. According to GMCW, the changes to the conservation proposal are consistent with the requirements of Condition 26, are supported by the Vermont Agency of Natural Resources (“ANR”), and have been approved by the Town of Milton and Vermont Governor Scott.

GMCW contends that the changes to the conservation proposal do not have the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good

of the state under Section 248(a). Therefore, GMCW maintains that the changes do not constitute a substantial change under Commission Rule 5.409.

On September 14, 2018, the Vermont Department of Public Service (“Department”) filed comments indicating that it does not object to GMCW’s proposed changes to the conservation proposal. No other comments have been filed.

II. DISCUSSION AND CONCLUSION

Commission Rule 5.408 states:

An amendment to a certificate of public good for construction of generation or transmission facilities, issued under 30 V.S.A. § 248, shall be required for a substantial change in the approved proposal. For the purpose of this subsection, a substantial change is one that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the state under Section 248(a).

Additionally, the Project’s CPG requires that:

Construction, operation, and maintenance of the Project shall be in accordance with the with the findings and requirements set forth in the Order.

According to GMCW, the changes to the conservation proposal are “limited to clarifying its terms and enhancing the scope of the easement’s protections for natural communities, wetlands, and wildlife habitat at Georgia Mountain.” GMCW describes the changes as follows:

- conveyance of the conserved property to ANR rather than to an undetermined third-party designee;
- 113.79 acres of land on Georgia Mountain conserved (as opposed to 108 acres) through a combination of a present grant for existing natural areas, and an executory interest to ANR for the wind turbine area once decommissioning is complete;
- funding for stewardship of the conserved parcel by ANR;
- additional easement language imposing greater restrictions on motorized vehicles in the conserved area;
- a more specific property description in the easement than what was proposed in 2011;
- current maple sugaring operations on the property described with specificity to serve as a benchmark; and
- enhanced value due to the conserved land’s contiguity with an adjacent 800± acres of property separately conveyed to the Vermont Land Trust.

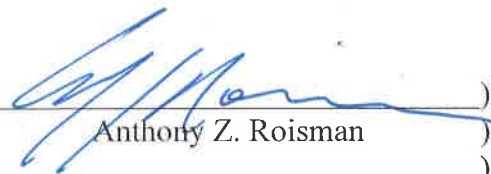
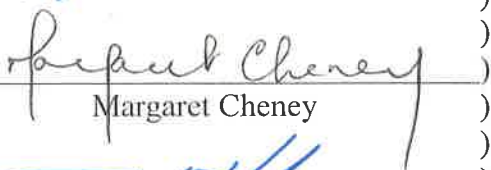
In support of its request, GMCW included the prefiled testimony and exhibits of James Harrison and Richard C. Butt, including as exhibit GMCW-JH-6 a copy of a letter from ANR expressing its support for GMCW's request and describing the proposed changes as enhancing the protections provided for in the previously approved conservation proposal.

Our review of the petition, the prefiled testimony and exhibits, and the comments filed by the Department lead us to conclude that the changes to the conservation proposal do not have the potential for significant impacts with respect to any of the Section 248 criteria or on the general good of the state under Section 248(a). The proposed changes therefore constitute a non-substantial change and no amendment to the CPG is required.

Because the Project's CPG requires that construction of the Project be done in accordance with the findings made in the June 11, 2010, order approving the Project, we hereby admit into the evidentiary record of this docket GMCW's August 20, 2018, request along with the prefiled testimony of James Harrison and exhibits GMCW-JH-1 through 6 and the prefiled testimony of Richard C. Butt.

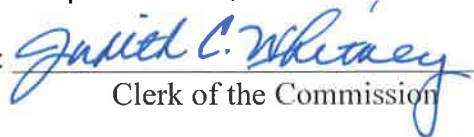
SO ORDERED.

Dated at Montpelier, Vermont, this 21st day of September, 2018.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hoffmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: September 21, 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)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 18-2952-PET - SERVICE LIST

Parties:

William J. Dodge, Esq.
Downs Rachlin Martin PLLC
199 Main Street
PO Box 190
Burlington, VT 05402
wdodge@drm.com

(for Georgia Mountain Community Wind,
LLC, and H.W. Ventures, L.C.)

James Porter, Director of Public Advocacy
Vermont Department of Public Service
DPS-PA@vermont.gov

(for Vermont Department of Public Service)

Andrew N. Raubvogel, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand,
PLLC
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
araubvogel@dunkielsaunders.com

(for Georgia Mountain Community Wind,
LLC)