

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Docket 7250

Amended Petition of Deerfield Wind, LLC, for a certificate of public good authorizing it to construct and operate a 15-turbine, 30 MW wind generation facility, and associated transmission and interconnection facilities, on approximately 80 acres in the Green Mountain National Forest, located in Searsburg and Readsboro, Vermont, with 7 turbines to be placed on the east side of Route 8 on the same ridgeline as the existing GMP Searsburg wind facility (Eastern Project Area), and 8 turbines along the ridgeline to the west of Route 8 in the northwesterly orientation (Western Project Area)	
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Order entered:

4/25/2019

**ORDER GRANTING MOTION TO MODIFY THE SOUND MONITORING PROTOCOL AND
DEFERRING A DECISION ON THOMAS SHEA'S REQUEST FOR OUTDOOR/INDOOR NOISE
REDUCTION TESTING**

I. INTRODUCTION

This case pertains to the amended certificate of public good ("Amended CPG") issued by the Vermont Public Utility Commission ("Commission") to Deerfield Wind, LLC ("Deerfield") for construction and operation of a 30 MW wind electric generation facility located in Searsburg and Readsboro, Vermont (the "Project").

In this order we grant the Vermont Department of Public Service's ("Department") request to modify the sound monitoring protocol for the Project subject to modifications to the monitoring approach and reporting. We also defer a decision on Thomas Shea's request for outdoor/indoor noise reduction ("OINR") testing at his residence.

II. RELEVANT PROCEDURAL HISTORY

On July 19, 2009, the Commission issued the Amended CPG for the Project. The Amended CPG required that Deerfield file a number of compliance filings. Condition 30 of the Amended CPG required Deerfield to submit a sound monitoring plan for review and approval by the Commission.

On May 16, 2017, Deerfield filed its proposed sound monitoring plan.

On June 28, 2017, Deerfield filed a revised plan based on comments made by the parties.

On December 14, 2017, the Commission directed Deerfield to file an amended sound monitoring plan based on Deerfield's June 28, 2017, plan and incorporating modifications suggested by the parties.

On January 16, 2018, Deerfield filed a revised sound monitoring plan (the "Plan") in compliance with the Commission's December 14, 2017, Order.

On October 11, 2018, the Department filed a map of the final sound monitoring sites provided by its independent sound monitoring consultant, as specified in the Plan.

On October 25, 2018, the Department filed notification that sound monitoring Site C specified in the Plan was being relocated from a forested area to a location close to the residence of Thomas Shea to be consistent with the Plan.

On January 7, 2019, the Department filed the fall 2018 sound monitoring compliance data.

On March 19, 2019, the Department filed a motion to modify the sound monitoring protocol described in the Plan.

On March 21, 2019, Mr. Shea requested OINR testing at his residence in Searsburg, Vermont, based on his independent analysis of the fall 2018 monitoring results.

On April 3, 2019, the Industrial Wind Action Group ("Windaction") and Tom Shea jointly filed objections to the Department's motion (the "Joint Comments").

On April 4, 2019, Deerfield filed comments on the Department's motion and Mr. Shea's request for OINR testing.

Also on April 4, 2019, the Department filed comments on Mr. Shea's request for OINR testing, stating it found the request reasonable.

On April 15, 2019, the Department filed reply comments to the Joint Comments on its motion.

On April 18, 2019, the Department filed reply comments to Deerfield's comments on Mr. Shea's request for OINR testing.

III. PARTIES' POSITIONS

Department's Motion

The Department's motion to modify the Plan is based on the results of the fall 2018 sound monitoring and would apply to the spring 2019 sound monitoring required under the Plan. The Plan requires that monitoring be conducted to obtain at least two hours of turbine-on sound measurements, excluding measurements when background sound levels are within 3 dB of the measured turbine-on sound levels. The Department's motion states that the fall monitoring effort resulted in insufficient data collected at sound monitoring Site C because the Searsburg wind turbines contributed to the background sound levels. This resulted in insufficient monitoring data when the measured turbine-on sound levels were not within 3 dBA of the background sound levels.

To address this issue, the Department proposes to monitor sound at an additional location for the spring 2019 monitoring event – i.e., monitoring would be conducted at Site C and a new Site C-alt. Site C-alt would be in close proximity to Site C, and would be flush-mounted on the outer wall of a building on the west side facing away from the Searsburg wind turbines. The Department proposes to monitor both Site C and Site C-alt for up to five weeks in the spring of 2019 to attempt to obtain at least two hours of turbine-on data that meet the requirements specified in the Plan. In the event insufficient turbine-on data can be obtained that is greater than 3 dBA above background sound levels, the results will be clearly marked as including background sound and will be used only to certify compliance with the 45 dBA exterior standard.

Windaction and Mr. Shea's joint comments ("Joint Comments") state that they object to the Department's motion because the building on which the microphone for Site C-alt would be attached (i.e., a barn) could act as a barrier to Project-related sound generated by the eastern

Project turbines. The Joint Comments contend that this is “antithetical to the intent of the compliance test.”

The Joint Comments also contend that any interference caused by the barn is unknown and that the Department’s approach of correcting the Site C-alt data for “pressure doubling resulting from the flush mounting” is also unknown.

The Joint Comments recommend that the Searsburg turbines be turned off during the sound monitoring, as recommended based on their review of the draft Plan.

The Joint Comments also state that the fall monitoring report indicates that during much of the monitoring period characterized as curtailment periods, the wind turbine data show that the Deerfield turbines were running.

The Joint Comments recommend that the Commission require that the fall monitoring event be repeated, that the Searsburg turbines be curtailed during all turbine on/off tests, that the Department and Deerfield ensure that the Deerfield turbines are turned off or on as mandated by the Plan, that the fall monitoring report information regarding turbine on/off status and specific times be clarified, and that the Department investigate its independent contractor’s ability to conduct further testing and, if necessary, search for another contractor.

Deerfield contends that neither Deerfield nor the Department has the authority to require that the Searsburg turbines be shut down. Deerfield also contends that the Joint Comments do not propose any other reasonable solutions to obtaining valid data from Site C. Deerfield recommends supplemental adjustments to the spring monitoring, based on review of the fall monitoring results, including use of standard microphone mounting practice, increasing the wind speed logging frequency from a 10-minute interval to a 1-minute interval, providing a graph or table of invalid periods and the reason for eliminating those periods, and providing the exact times of the valid periods used to determine compliance.

Deerfield contends that the discrepancies in Deerfield turbine on/off times noted by Windaction are not correct. Deerfield states that Daylight Savings Time and the fact that the SCADA data were provided in Pacific Time must be considered, and that it finds that the reported turbine on/off times are in compliance with the requirements in the Plan.

Deerfield argues that Mr. Shea’s separate motion for outdoor/indoor noise reduction testing at his home should not be granted until the results of the spring monitoring are available.

The Department's reply to the Joint Comments requests timely approval of its motion by the Commission so that the spring monitoring can commence. The Department clarifies that the 3-dB requirement would only be disregarded in the spring 2019 monitoring results if insufficient data are obtained after five weeks of monitoring, and that the results in that case would only be used to certify compliance with the 45 dBA exterior standard.

The Department also argues that the data from Site C-alt will only be used if necessary, and that a structural support can be used instead of flush-mounting the microphone on the barn.

The Department states that its consultant has proposed for the spring monitoring event to provide one-minute wind speed logs, graphs or tables of invalid periods and the reason for eliminating those periods, and the exact times of the valid periods that are used to determine compliance.

The Department represents that the parties are discussing the fall monitoring results, and that resolution of the issues raised by Windaction in regard to those results are not relevant to the Department's motion regarding the spring monitoring approach. Similarly, the Department argues that Mr. Shea's motion for outdoor/indoor noise reduction testing is also independent from the Department's pending motion.

Mr. Shea's Request for OINR Testing

Mr. Shea conducted an independent analysis of the fall 2018 monitoring results that supports the appropriate trigger for conducting OINR testing at his residence.

The Department agreed with the conclusion that the OINR testing trigger had been met in the fall 2018 data despite the fact that the monitoring did not produce a full hour of turbine-on monitoring results.

Deerfield argues that the fall 2018 data are not sufficient to support the determination of OINR testing for Mr. Shea, and that that determination should be revisited after completion of the spring 2019 monitoring.

The Department filed a reply to Deerfield's comments, but also stated in its response to comments on its motion that the OINR testing issue is independent of the issues related to its

motion. The Department recommends that the Commission rule on the Department's motion in a timely manner so that the spring 2019 monitoring can commence.

IV. DISCUSSION AND CONCLUSION

The Commission grants the Department's motion for modification to the Plan so that the spring monitoring can commence in a timely manner. In addition to the incorporation of an additional monitoring site, Site C-alt, the recommendations made by Deerfield and the Department are to be included in the spring monitoring approach. The Department's recommendation of installing the microphone at Site C-alt on a separate support structure than the barn should be followed if feasible. The report must explain whether this was feasible, and if not, provide a clear description of how potential interference of the barn structure has been addressed in the monitoring and data analysis.

The Commission understands that the Joint Comments pertaining to the fall monitoring event are still being discussed by the parties, and we encourage the parties to continue that effort. To assist in resolution of the issues, we request that the Department have its consultant file a revised fall monitoring report that normalizes all reported times to the same time standard, with annotations explaining any changes from the initial fall monitoring report.

Additionally, the Department and Deerfield must ensure that implementation of the spring monitoring complies with the specified Deerfield turbine on/off requirements, and that the report provides clear evidence and documentation of such compliance, or discussion of any deviations and the implications for the conclusions drawn from the monitoring.

We find it appropriate to delay a determination on Mr. Shea's request for OINR testing until the spring 2019 monitoring results can be incorporated into the decision in accordance with the Plan.¹ Accordingly, we will convene a status conference immediately after the parties have had time to review the spring 2019 monitoring results to discuss appropriate process related to any outstanding issues with the fall 2018 monitoring, the conclusions of the spring 2019 monitoring, and Mr. Shea's request for OINR testing.

SO ORDERED.

¹ On April 25, 2019, Deerfield filed a motion for leave to reply to the Department's 4/22/2019 filing regarding Mr. Shea's request for OINR testing. The Commission reached a decision on this matter before receiving Deerfield's 4/25/2019 filing, and the motion for leave to make this filing is therefore moot.

Dated at Montpelier, Vermont, this 25th day of April, 2019.


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

OFFICE OF THE CLERK

Filed: April 25, 2019

Attest: Julith C. Whitney
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.