

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7156

Petition of UPC Vermont Wind, LLC, for a Certificate of)
Public Good, pursuant to 30 V.S.A. § 248, authorizing the)
construction and operation of a 52 MW wind electric)
generation facility, consisting of 26 wind turbines, and)
associated transmission and interconnection facilities, in)
Sheffield and Sutton, Vermont)

Order entered: 6/21/2006

ORDER RE INTERVENTION REQUEST OF THE TOWN OF SUTTON PLANNING COMMISSION

On April 27, 2006, the Public Service Board ("Board") granted permissive intervention to the Town of Sutton ("Sutton") but requested further information regarding the notice of appearance that accompanied the intervention request. The notice was signed by the Chair of the Sutton Planning Commission, and the Board required Sutton to explain whether the Chair of the Planning Commission is authorized to represent the Selectboard. On May 10, 2006, Hershenson, Carter, Scott & McGee, P.C, filed a notice of appearance on behalf of Sutton.

On June 9, 2006, the Town of Sutton Planning Commission ("Planning Commission")¹ filed a letter with the Public Service Board ("Board") requesting that we "grant separate intervenor status to the Town of Sutton Planning Commission based on the documents already on file with the Board."

On June 9, 2006, the Department of Public Service ("Department") filed a letter with the Board opposing the Planning Commission's intervention request. The Department's opposition is based on two factors. First, the Planning Commission relies on the motion to intervene by Sutton; the Department contends that, since Sutton was granted party status, the interests expressed in the motion are already protected by the town itself. Second, the Department cites Board precedent denying an intervention request from a planning commission where the town selectboard had already been granted party status in the case.

1. The June 9 letter refers to the Planning Commission as the Planning Board. We have assumed these entities are the same.

As the Department correctly notes, the Board's precedent on this issue is clear. In Docket 6860, the Board denied the intervention requests of the City of Vergennes Planning Commission and the Town of Middlebury Planning Commission. In the Order addressing those intervention requests, we stated:

These planning commissions appear to be creatures of the municipality, and neither the City of Vergennes Planning Commission nor the Town of Middlebury Planning Commission has established an interest in this proceeding distinct from that of the municipal legislative body. Therefore, we do not grant party status to these two planning commissions, and instead their participation in this Docket must be through their municipal legislative bodies.²

In that Order we also noted that the municipal legislative bodies could designate the planning commission to participate in the docket as a representative of the legislative body. In Docket 7032, the Board's Hearing Officer made a similar ruling with respect to the intervention request of the Duxbury Planning Commission.³

For these reasons, we deny the Sutton Planning Commission's motion to intervene.

SO ORDERED.

Dated at Montpelier, Vermont, this 21st day of June, 2006.

s/James Volz _____)	PUBLIC SERVICE
_____)	
s/David C. Coen _____)	
_____)	BOARD
_____)	
s/John D. Burke _____)	OF VERMONT

OFFICE OF THE CLERK

FILED: June 21, 2006

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

2. Docket 6860, Order of 10/17/03 at 7.

3. Docket 7032, Order of 3/8/05 at 4.