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January 16, 2007

By Hand Delivery

Mrs. Susan Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

Re: Docket No. 7156 - Petition of UPC Vermont Wind, LLC

Dear Mrs. Hudson:

Pursuant to the Board's Scheduling Order, UPC is hereby requesting to conduct limited live sur-surrebuttal testimony at the evidentiary hearings scheduled for the last week of January and first week of February.

UPC's request is predominantly necessitated by the rebuttal testimony of Mark Kane and Robert Ide for the Department of Public Service. These two witnesses testified that, should the remaining two turbines located on Norris Mountain in Sutton be eliminated, the Project would be approvable (provided certain other permit conditions were included by the Board in a CPG).¹ *Kane surreb. pf. at 2-3; Ide surreb pf. at 3, 5-8, 13, 20.* In order to address this testimony, UPC would offer the following limited live sur-surrebuttal:

1. Cowan/Vavrik/Rowland panel – this panel of witnesses, representing UPC management, would testify that UPC has modified its turbine layout to shift the two (2) Sutton turbines into Sheffield, within the remaining array. In particular, Mr. Cowan (or Mr. Vavrik) would testify that:
 - UPC has not had the opportunity to make this change up to this point in time, despite ongoing negotiations with the involved landowner, but has recently signed an agreement with the landowner which permits the change;
 - The revised layout makes room for the 2 turbines by small shifts in a few other turbine locations to avoid wake effect and optimize power production.
 - The revised layout results in reductions in total length of roads, land clearing activities, stream crossings, and in impacts to wetlands and bear habitat.

¹ UPC would also note that other parties have strongly advocated the elimination of the Sutton turbines, in particular the Town of Sutton.

- The revised layout increases the distance of the Project to the nearest residences to the east and north, thus further reducing projected sound levels in those directions.
- The revised layout results in a small increase in average yearly power production.

Mr. Vavrik would also briefly testify concerning the status of power sales to VEC and CVPS, in response to the rebuttal testimony of Robert Ide. *Ide surreb. pf. at 14-17.*

Mr. Rowland would also briefly testify concerning the status of the ISO system impact study, in response to the testimony of Steve Litkovitz. *Litkovitz surreb. pf. at 2-3.* Mr. Rowland would also briefly respond to the testimony of Sutton witness Kaliski regarding the Clipper sound warranty. *Kaliski surreb. pf. at 2-3.*

Finally, Mr. Cowan would briefly respond to the testimony of ANR witnesses John Austin and Scott Darling regarding mitigation for impacts to bear habitat and post-construction bird and bat monitoring, and report on positive discussions with ANR regarding the same. *Darling surreb pf. at 6-11; Austin surreb. pf. at 7-10, 12-14.*

In support of their testimony, UPC would offer into evidence an updated site map and plans, a comparison of the revised layout to prior layouts, a draft revised ISO Study, and a letter from VEC, all of which are attached to this letter. Mr. Cowan would testify that the method in preparing these exhibits was the same as that used for the comparable exhibits in UPC's September 25, 2006 rebuttal filing.²

2. David Raphael – Mr. Raphael would briefly describe the effect of the revised layout and the elimination of the Sutton turbines in further reducing and mitigating visual impacts, particularly at Crystal Lake State Park, in response to the Ide and Kane surrebuttal testimony noted above.

In support of Mr. Raphael's testimony, UPC would offer into evidence revised visual simulations from Crystal Lake, Route 5, and I-91 (attached to this letter). Mr. Raphael would testify that the method in preparing the simulations was the same as that used for the simulations in UPC's September 25, 2006 rebuttal filing, with the only change being the use of revised turbine locations as inputs.

3. Chris Bajdek and Chris Menge – This panel would briefly describe the effect of the revised layout and the elimination of the Sutton turbines in further reducing sound levels at nearby residences, due to the increase in distance. Messrs. Bajdek and Menge would also briefly respond to the rebuttal testimony of Sutton witness Ken Kaliski concerning the available sound data for the Clipper turbines. *Kaliski surreb. pf. at 2-3.*

² All of the proposed sur-surrebuttal exhibits will be posted on UPC's discovery ftp site, which the parties have previously utilized. <ftp://65.200.22.212>, username = upcdiscovery-upcrebuttal, password = upc.

In support of this testimony, UPC would offer into evidence revised sound level figures, (attached to this letter). Mr. Bajdek would testify that the method in preparing the exhibit was the same as that used for the sound level modeling included in UPC's September 25, 2006 rebuttal filing.

UPC respectfully requests that the Board grant its request to introduce the above-described testimony. This surrebuttal testimony is directly related to the other parties' rebuttal testimony, and concerns important updates to the Project that have been requested by other parties and that are likely to be of interest to the Board. It is being provided by UPC at the earliest possible opportunity, and could not have been provided earlier in the proceeding. Although some of this information could have been provided by UPC *as post-CPG filings* (e.g., micro-siting of turbines and roads, moving the Sutton turbines, and the revised ISO study), UPC believes that it is far more efficient and fair to all parties to present the information now. Finally, UPC has provided the relevant exhibits in advance as a further means to provide fair notice to the parties.

Thank you for your attention to this matter, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andrew Raubvogel', with a stylized, flowing script.

Andrew Raubvogel
SHEMS DUNKIEL KASSEL & SAUNDERS PLLC

enclosures

cc: Service List

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7156

Amended 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 40 MW)
wind electric generation facility, consisting of 16 wind)
turbines, and associated transmission and interconnection)
facilities, in Sheffield and Sutton, Vermont, to be known as)
the "Sheffield Wind Project")

CERTIFICATE OF SERVICE

I, Livia DeMarchis, certify that on January 16, 2007, I forwarded copies of UPC
Vermont Wind, LLC's *Sur-rebuttal Cover Letter and Sur-rebuttal Exhibits* by First Class Mail
in a sealed and properly stamped envelope to the attached service list:

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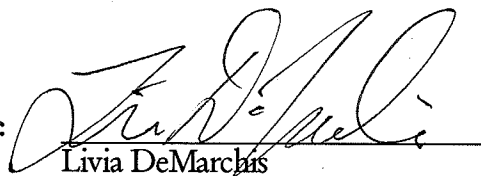
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By:


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