

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7508

Petition of Georgia Mountain Community Wind,)
LLC, for a certificate of public good, pursuant to 30)
V.S.A. § 248, authorizing the construction and)
operation of a 5-wind turbine electric generation)
facility, with associated electric and interconnection)
facilities, on Georgia Mountain in the Towns of)
Milton and Georgia, Vermont, to be known as the)
"Georgia Mountain Community Wind Project")

Order entered: 12/9/2010

ORDER RE MOTION TO LIMIT PARTICIPATION

Background

On June 11, 2010, the Public Service Board ("Board") granted a Certificate of Public Good ("CPG"), pursuant to 30 V.S.A. § 248, to Georgia Mountain Community Wind, LLC ("GMCW"), authorizing the construction of a wind generation facility ("Project"). Condition No. 2 of GMCW's CPG states that "GMCW shall incorporate into the proposed Project design an appropriate set-back distance from adjacent property lines. The Board will conduct additional proceedings to determine an appropriate set-back distance from the turbines to the adjacent property lines."

On October 29, 2010, GMCW filed a proposed schedule for the set-back proceedings. The proposed schedule included a footnote stating that "only those parties demonstrating a direct interest and standing shall be entitled to participate in this phase of the docket."

On November 4, 2010, the Landowner Intervenor¹ filed a response to the footnote included in GMCW's October 29 filing. The Landowner Intervenor specifically referenced the Board's August 6, 2010, *Order Re Motion for Reconsideration and Proposed Schedule Re Set-back Requirements*, which includes the following language: "As we stated in our June 11 Order, we will conduct additional proceedings to determine an appropriate set-back distance from the

1. Daniel and Tina Fitzgerald, Kenneth and Virginia Mongeon, Kevin and Cindy Cook, George A. and Kenneth N. Wimble, Scott and Melodie McLane, Matthew and Kimberly Parisi, and Jane and Heidi FitzGerald (collectively, "Landowner Intervenor").

turbines to the adjacent property lines; all parties to this Docket will have the opportunity to participate in those proceedings."

On November 10, 2010, GMCW filed a Motion to Limit Participation in the Set-Back Proceedings to Abutting Landowner Parties Only ("Motion to Limit Participation"). In the Motion to Limit Participation, GMCW seeks to limit the scope of landowner participation in the post-CPG hearings on set-back proceedings such that only adjoining-landowner intervenors could participate.² GMCW argues that among the intervenors, only Jane FitzGerald and the Wimbles have specific and particularized interests that could be affected by a decision regarding set-back distances because they are the only two landowners that own land abutting the property on which the Project turbines will be sited.

No other party filed comments on the Motion to Limit Participation.

Discussion and Conclusion

On July 2, 2009, the Board issued an Order granting the Landowner Intervenor permissive interventions, limited to the interests that they identified in their motions, with the exception of the need for the proposed project (criteria (b)(2)) and, in the case of Ms. Parisi, with the exception of the increased likelihood of car accidents on nearby roads.³ In GMCW's November 10 Motion to Limit Participation, GMCW seeks to limit our original intervention order by excluding from the set-back proceedings all landowners granted interventions, with the exception of Jane FitzGerald and the Wimbles, who GMCW asserts are the only landowners that "own land abutting the property on which the Project turbines will be sited."⁴

2. GMCW's Motion to Limit Participation states that

There are currently 6 different landowners who have participated in the pre-CPG proceedings in this docket: Kenneth and Virginia Mongeon (the "Mongeons"); Scott and Melodie McLane (the "McLanes"); Daniel and Tina FitzGerald (the "DT FitzGerald"); George and Kenneth Wimble of Wimble Brothers Organic Dairy (the "Wimbles"); Jane and Heidi FitzGerald; and Matthew and Kimberly Parisi (the "Parisis").

However, consistent with filings and Orders in this Docket, the group of landowners that participated as the "Landowner Intervenor" also includes Kevin and Cindy Cook. *See e.g.*, Docket 7508, Order of 6/11/10; letter of November 23, 2010, from Melodie McLane, on behalf of the Landowner Intervenor, to Susan M. Hudson, Clerk of the Board.

3. *See Order re: Motions to Intervene*, Docket 7508, Order of 7/2/09.

4. *Motion to Limit Participation* at 2. For clarification, the Mongeons and Cooks also own property that abuts the Project property. *See* Docket 7508, Order of 7/2/09 at 6.

First, we previously stated in our August 6 Order that "all parties to [Docket 7508] will have the opportunity to participate in the proceedings to determine an appropriate set-back distance from the turbines to the adjacent property lines."⁵ In addition, we also stated that

GMCW must address the relevant Section 248(b) criteria and demonstrate that there will be no negative impacts of its set-back proposal on potentially impacted criteria. If we determine that the Project cannot be redesigned to accommodate a reasonable set-back requirement and comply with the criteria of Section 248(b), GMCW will not meet the condition required in the June 11 Order and will not be able to construct the project.⁶

Thus, the set-back proceedings have the potential to involve issues within the scope of a non-adjoining landowner's intervention. All parties to Docket 7508 continue to be restricted in the scope of their intervention as provided in the previously-issued intervention orders. GMCW has failed to articulate a sufficient basis for further limiting the scope of these previously approved interventions.

In the interest of efficiency, the Landowner Intervenors are encouraged to continue their collaboration and, to the extent possible, the parties with similar interests should coordinate for the purposes of promulgating discovery, developing prefiled testimony, and participating in hearings.

Therefore, we deny GMCW's Motion to Limit Participation.

So ORDERED.

5. Docket 7508, Order of 8/6/10 at 3.

6. *Id.*

Dated at Montpelier, Vermont, this 9th day of December, 2010.

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

OFFICE OF THE CLERK

FILED: December 9, 2010

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: psb.clerk@state.vt.us)