

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7628

Joint Petition of Green Mountain Power Corporation,)
Vermont Electric Cooperative, Inc., and Vermont Electric)
Power Company, Inc. for a certificate of public good,)
pursuant to 30 V.S.A. Section 248, to construct up to a)
63 MW wind electric generation facility and associated)
facilities on Lowell Mountain in Lowell, Vermont, and the)
installation or upgrade of approximately 16.9 miles of)
transmission line and associated substations in Lowell,)
Westfield and Jay, Vermont)

Order entered: 1/27/2014

ORDER RE: NELSON NRO REPORTING COMPLAINT

I. Introduction

On January 6, 2014, Donald and Shirley Nelson (the "Nelsons") filed with the Public Service Board ("Board") a complaint alleging that Green Mountain Power Corporation ("GMP") violated Condition 41 of its Certificate of Public Good ("CPG") by failing to properly implement and report on use of the Noise Reduced Operational ("NRO") mode.¹

On January 17, 2014, GMP responded to the Nelsons' complaint asserting that it was fully compliant with the requirements of Condition 41 of the CPG and that the Nelsons' complaint should be dismissed.²

For the reasons discussed below, in today's Order we find that GMP has sufficiently complied with the requirements of Condition 41 of its CPG, but we direct GMP to include in future sound monitoring reports a narrative explanation that describes each instance when NRO mode was triggered during the monitoring period and how it affected project operations.

1. Letter from Shirley Nelson to Susan M. Hudson, Clerk of the Board, dated January 6, 2014, at 1 ("Nelson Letter").

2. Letter from Peter H. Zamore, Esq., to Susan M. Hudson, Clerk of the Board, dated January 17, 2014, at 2-3 ("GMP Letter").

II. Positions of the Parties

The Nelsons advance two grounds in support of their complaint. First, the Nelsons state that it is not clear how GMP has satisfied subsection (c) of Condition 41, which requires sound monitoring to occur when NRO mode is in use at the project. Second, the Nelsons assert that the sound monitoring reports filed to date by GMP have never contained a description of how NRO mode has affected project operations, as required by subsection (d) of Condition 41.

GMP states that it has complied with subsection (c) of Condition 41 because its NRO implementation schedule is consistent with its modeled expectations and NRO mode is triggered on a daily basis for certain turbines between 4:00 P.M. and 8:00 A.M. and during the daytime when certain wind conditions are present. GMP also states that it is in compliance with subsection (d) of Condition 41 because its reports meet the requirements of its approved Noise Monitoring Plan.³ According to GMP, that approved plan requires it to report to the Board when NRO mode is programmed to occur, to report any changes to that programming should any be implemented, and to file an annual report documenting every instance when NRO mode was triggered and how it affected operations.⁴

III. Discussion

For the reasons discussed below, we find that GMP has sufficiently complied with the requirements of Condition 41 of its CPG, but we direct GMP to include in future sound monitoring reports a narrative explanation that describes each instance that NRO mode was triggered during the sound monitoring period and how it affected project operations.

Condition 41 of the CPG requires GMP to conduct sound monitoring pursuant to the terms and conditions of an approved Noise Monitoring Plan that includes, in relevant part:

(c) a means for ensuring that noise monitoring events shall be timed to coincide with those time periods when Petitioners' modeling indicates the likelihood that the noise reduced operation ("NRO") mode will be triggered; (d) monitoring reports that document every instance when NRO mode is triggered, with a description of how NRO affected operations.⁵

3. See Docket 7628, Order of 5/16/12 at 1-2 (approving Noise Monitoring Plan).

4. GMP Letter at 2-3.

5. Docket 7628, Certificate of Public Good dated 5/31/11 at 9.

We disagree with the Nelsons' assertion that it is not clear whether the requirement of subsection (c) of Condition 41 has been met. Subsection (c) pertains to the Noise Monitoring Plan, not to the reports that are filed subsequent to each quarterly monitoring period, and requires that the plan ensure that noise monitoring occurs at times when GMP's noise modeling indicated a likelihood that NRO mode would be triggered.⁶ GMP's reports indicate that turbines 1 through 5 and 11 through 18 are in NRO mode on a daily basis from 4:00 P.M. through 8:00 A.M. These turbines are also subject to NRO mode at other times of day when the wind is blowing in a certain direction. The intent of subsection (c) is to ensure that sound monitoring occurs at times when NRO mode is in effect, and the programmed daily use of NRO mode on these turbines means that monitoring is, by definition, taking place when NRO mode is triggered. Therefore, we find that GMP has complied with subsection (c) of Condition 41.

We also find that GMP has sufficiently complied with subsection (d) of condition 41. Subsection (d) applies to the reports that GMP files after each quarterly monitoring period and requires those reports to "document every instance when NRO mode is triggered, with a description of how NRO affected operations." The reports that GMP has filed give information on when NRO mode is in effect on a daily basis. Given the information contained in the report and in Appendix C, it is possible to determine when NRO mode is in effect for specific turbines, as well as the output level for each of those turbines, between the hours of 4:00 P.M. and 8:00 A.M. on a daily basis. Additionally, while conclusions can be drawn regarding NRO mode between the hours of 8:00 A.M. and 4:00 P.M. based on reported wind speeds and changes in turbine output, those conclusions would be less than certain due to the absence of wind direction information and other variables that may affect turbine output that are not identified in the report. Given that NRO mode implementation and output variations that occur as a result can be identified for 16 hours out of every 24-hour period, and given that conclusions can be reached regarding NRO mode for the remaining eight hours of each 24-hour period, although those

6. The GMP Letter quotes language from page 2 of exhibit Pet.-KHK-2 (Supp.) in support of its position that it has complied with this requirement. However, a correction was made to that exhibit by Mr. Kaliski that struck from the exhibit the language that GMP quotes. *See* tr. 2/22/11 at 12-13 and exh. Pet.-KHK-2 (Supp.) at 2 as corrected. Our decision today is not based on the language quoted by GMP.

conclusions would be made at a less than optimal degree of certainty, we find that GMP is in sufficient compliance with the requirements of subsection (d) of Condition 41.

While we find substantial compliance on the part of GMP, we nonetheless find that a narrative description of the times that NRO mode is implemented and what its impacts are would be helpful to those reading and seeking to understand the content of these reports. We believe the current format employed by GMP may prove challenging to average readers because they must correlate the programmed NRO mode times with two sets of data in Appendix C to draw a conclusion about the impact of NRO mode on project operations. Attempting to discern an impact with respect to the daytime implementation of NRO based on wind direction would be particularly challenging because it would require a reader to look for turbine output variations for the specified turbines at ten-minute intervals over the course of the eight-hour window between 8:00 A.M. and 4:00 P.M. each day as a basis for discerning the triggering of NRO mode. Accordingly, GMP shall include in its future sound monitoring reports a narrative description of each instance when NRO mode is triggered during the monitoring period and an explanation of how NRO mode affected project operations. Given that the reports already set out which turbines are in NRO mode on a daily basis based on time of day, the description should focus on identifying those times that NRO mode was in effect based on wind direction.

SO ORDERED.

Dated at Montpelier, Vermont, this 27th day of January, 2014.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/John D. Burke</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/Margaret Cheney</u>	)	

OFFICE OF THE CLERK

FILED: January 27, 2014

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)