

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: 8/15/2012

ORDER RE RESUMPTION OF USE OF NORTHERN ROUTE

On August 3, 2012, the Public Service Board ("Board") issued an Order directing Green Mountain Power Corporation ("GMP") to cease its use of the so-called "northern route" for the transport of components for its approved wind electric generating facility in Lowell, Vermont (the "Project"). The August 3, 2012, Order was necessary because GMP disclosed in a letter filed July 27, 2012, that it had commenced usage of the northern route prior to complying with requirements in its approved Transportation Plan (the "Plan") that it survey road conditions with VTrans and local officials 30 days before initial transport, and that it discuss any potential issues with officials from towns along the route 60 days before initial transport.¹

On August 2, 2012, in a letter response to a motion filed by the Towns of Albany and Craftsbury, and Lowell Mountains Group, Inc.² seeking unspecified sanctions and an injunction against GMP's use of the northern route, GMP stated that, since its July 27, 2012, letter, it had "complied with the substance of the Plan's requirements, by documenting road conditions, by

1. Docket 7628, Order of 8/3/12 at 4. Letter from Peter H. Zamore, Esq., to Susan M. Hudson, Clerk of the Board, dated July 27, 2012 ("7/27/12 letter").

2. The Board denied the motion by Order dated 8/3/12.

offering VTrans and the affected towns an opportunity to participate in the documentation, and by offering to meet with town officials and first responders to answer questions and to coordinate transportation to address any concerns they may have."³ According to GMP, it completed a video survey of existing road conditions on July 31 and August 1, 2012.⁴ Additionally, GMP stated that on July 26, 2012, it contacted the town manager, or where none, the town clerk, for each town along the northern route, notifying them of GMP's usage of the route and offering to meet with town officials and first responders to address any concerns they might have. GMP stated that it again contacted all the towns along the route on July 30, 2012, to reiterate the offer to meet and address concerns. None of the towns requested a meeting or asked to participate in the road survey.⁵ However, four towns did raise issues during their conversations with GMP. St. Albans City indicated that it would prefer that the transport be completed by early September, when some planned road construction will begin. Transport through Swanton requires a local overweight permit, which was issued on July 30, 2012. Johnson requested that transport vehicles proceed slowly over newly-installed brick walks across the highway, and Fairfax requested that the use of engine braking be minimized.⁶

GMP's August 2 letter also stated that deliveries were made using the northern route on July 23, 24, 27 and August 2,⁷ and that it had since directed its transportation contractor to cease use of the route. GMP requested that the Board waive the 30-day and 60-day advance time periods required by the Plan and allow GMP to resume deliveries on the northern route. GMP stated that it will not utilize the route until the Board grants the requested waiver, or the time periods required by the Plan have passed.⁸

Our August 3, 2012, Order directed GMP to file, for Board review and approval, a sworn affidavit from a company official with personal knowledge that the road survey and consultation requirements of the Plan had been satisfied. In the affidavit, GMP was required to detail the

3. Letter from Peter H. Zamore, Esq., to Susan M. Hudson, Clerk of the Board, dated August 2, 2012, at 2 ("8/2/12 letter").

4. 8/2/12 letter at 2.

5. 8/2/12 letter at 2.

6. 8/2/12 letter at 2.

7. 8/2/12 letter at 2.

8. 8/2/12 letter at 3.

dates that transportation activities took place on the northern route, the dates and specific actions undertaken by GMP to comply with the road survey and consultation requirements of the Plan, how GMP intended to address concerns raised by St. Albans City, Johnson and Fairfax, and, for the other towns, detail who received notice, and when and how such notice was given, so that the Board could assess whether the 60-day notice requirement was replaced with a fair opportunity for the towns to express their concerns relative to traffic, health, safety and infrastructure in their area.⁹

On August 9, 2012, GMP filed the affidavits of Charles W. Pughe and Lucy Leriche in response to the August 3 Order. According to the Pughe Affidavit, the road survey was completed on July 31 and August 1, 2012.¹⁰ According to the Leriche affidavit, town officials for all Vermont towns on the northern route were consulted on either July, 26, July 30, or August 6, 2012. In three of the towns, Alburgh, Cambridge and Eden, the consultation was with the Town Clerk.¹¹

On August 13, 2012, the Department of Public Service (the "Department" or "DPS") filed comments in response to the affidavits filed by GMP. The Department provided a recommendation on fines for GMP's unauthorized use of the northern route, but did not make a specific recommendation on whether GMP should be allowed to resume use of the route without waiting the requisite 30 and 60-day periods.¹²

We are concerned that GMP's contacts with the Towns of Alburgh, Cambridge and Eden appear to have been limited to discussions with the Town Clerks of these municipalities. While Town Clerks are town officials, they are not an appropriate point of contact for purposes of the Plan absent an advance-timing requirement that allows time for information to reach to a more relevant town official; the 60-day advance notice requirement achieved this goal. Accordingly, prior to resuming use of the northern route, GMP must file a sworn affidavit from a company official with personal knowledge, that it has consulted with the highway foreperson, or the Select Board Chair or Acting Chair in the Towns of Alburgh, Cambridge and Eden, and that these town

9. Docket 7628, Order of 8/3/12 at 3-4.

10. Pughe Affidavit at 2.

11. Leriche affidavit at 2.

12. Letter from Geoffrey Commons, Esq., to Susan M. Hudson, Clerk of the Board, dated 8/13/12.

officials did not raise any concerns or objections to the transport of Project components through their towns. Upon filing the required affidavit, the 30 and 60-day advance time requirements will be waived and GMP may commence use of the northern route pursuant to the requirements of the approved Plan.

The Board is also considering the imposition of penalties against GMP for its self-reported violations, and has received and reviewed the Department's comments and recommendation. However, we are not acting on that recommendation today. We have concluded that additional information is needed from GMP in order for us to properly assess a penalty amount. Accordingly, we will be issuing a number of information requests to GMP in the coming days, the answers to which we will require be in the form of a sworn affidavit by a company official with personal knowledge of the information responsive to each request.

SO ORDERED.

Dated at Montpelier, Vermont, this 15th day of August, 2012.

<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: August 15, 2012

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)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.