

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: 8/3/2012

ORDER RE TEMPORARY CESSATION OF USE OF NORTHERN ROUTE

On July 19, 2012, the Public Service Board ("Board") issued an Order (the "Order") approving revisions to Green Mountain Power Corporation's ("GMP") previously-approved Transportation Plan ("Plan") allowing the incorporation into the Plan of the so-called "northern route" for the transport of project components. As part of that approval, the Board directed GMP to file a complete second revised Plan reflecting the incorporation of the northern route into the previously-approved Plan.¹

On July 27, 2012, GMP filed the revised Plan as required by the Board's July 19, 2012, Order. However, in the cover letter to the revised Plan, GMP stated:

The Plan requires that GMP survey road conditions with VTrans and local officials 30 days before initial transport and discuss any potential issues with local personnel 60 days before initial transport. Although GMP has begun these activities with respect to the northern route, GMP's contractor has begun transport

1. Docket 7628, Order of 7/19/12 at 3.

in order to meet the project schedule, and therefore these activities will not be completed within the identified timeframes.²

GMP correctly notes that the approved Plan requires a survey of existing road conditions along the route as well as consultation with local officials and first responders in each town along the route prior to initiating delivery of project components.³ The advance consultation requirement provides an opportunity for local officials and first responders in affected towns to work with GMP to adequately address potential concerns arising from the transport of components through their area. The pre-delivery road condition survey is critically important because it is used to establish a baseline for road conditions to determine if GMP is liable for any damage caused by the transport vehicles. Without the establishment of that baseline prior to commencement of deliveries, it would be difficult, if not impossible, to resolve disputes over whether GMP's contractors caused damage to roads or not.

On August 2, 2012, in a letter response to a motion filed by the Towns of Albany and Craftsbury, and Lowell Mountains Group, Inc.⁴ seeking unspecified sanctions and an injunction against GMP's use of the northern route, GMP states that, since its July 27, 2012, letter, it has "complied with the substance of the Plan's requirements, by documenting road conditions, by 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."⁵ According to GMP, it completed a video survey of existing road conditions on July 31 and August 1, 2012.⁶ Additionally, GMP states 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 again contacted all the towns along the route on July 30, 2012, to reiterate the offer to meet and

2. Letter from Peter H. Zamore, Esq., to Susan M. Hudson, Clerk of the Board, dated July 27, 2012 ("7/27/12 letter").

3. Plan at 2.

4. The Board denied the motion by Order issued of even date herewith.

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

6. 8/2/12 letter at 2.

address concerns. None of the towns requested a meeting or asked to participate in the road survey.⁷ 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.⁸

GMP's August 2 letter also states that deliveries were made using the northern route on July 23, 24, 27 and August 2.⁹ GMP asserts that its actions were reasonable because turbine components had begun to arrive in Albany, New York.¹⁰ Although GMP had planned on seven more deliveries along the northern route, it has directed its transportation contractor to cease use of the route immediately. GMP requests 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 states that it will not utilize the route until the Board grants the requested waiver, or the time periods required by the Plan have passed.¹¹

Based on the representations in GMP's August 2, 2012, letter, it appears that GMP has completed the road survey and consultation requirements in the Plan. Additionally, GMP represents that it has stopped using the northern route and will not re-commence use of that route until such time as it receives authority from the Board to do so, or the requisite time periods have passed. Provided GMP can properly demonstrate that the road survey and consultation requirements have been met, we will not require GMP to wait for the 30-day and 60-day time periods to pass in advance of resuming transport on the northern route. Those advance time periods were proposed by GMP and approved by the Board as adequate for their intended purpose. What is critical, is that these activities be completed prior to the initiation of transport on a given route, not how long prior to initiation of transport they are completed. Accordingly,

7. 8/2/12 letter at 2.

8. 8/2/12 letter at 2.

9. 8/2/12 letter at 2.

10. 8/2/12 letter at 3.

11. 8/2/12 letter at 3.

GMP must 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 have been satisfied. The affidavit must detail the dates that transportation activities took place on the northern route, and the dates and specific actions undertaken by GMP to comply with the road survey and consultation requirements. The affidavit must also indicate whether and how GMP intends to address the concerns raised by Saint Albans City, Johnson and Fairfax. For the other towns, the affidavit must specify who received notice, and when and how such notice was given, so that the Board can assess whether the 60-day notice was replaced with a fair opportunity for the towns to express their concerns relative to traffic, health, safety and infrastructure in their area. Upon receipt of the affidavit, the Board will render its determination regarding GMP's compliance and whether GMP may re-commence transport on the northern route.

Lastly, while we commend GMP's self-reporting, we view the violations as a serious concern.¹² Therefore, we are considering the possibility of imposing financial sanctions as a result of GMP's non-compliance.

So ORDERED.

12. At a minimum, the deliveries that took place on July 27 and August 2 appear to have been knowing and intentional violations since GMP's July 27 letter to the Board acknowledged that the northern route was in use without full Plan compliance.

Dated at Montpelier, Vermont, this 3rd 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 3, 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.