

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 23-2700-PET

Petition of Deerfield Wind, LLC to amend the certificate of public good to allow petitioner to revise decommissioning letter of credit every third year consistent with Public Utility Commission Rule 5.904(B)	
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Order entered: 12/06/2023

FINAL ORDER GRANTING AMENDMENT TO CERTIFICATE OF PUBLIC GOOD

In this Order, the Vermont Public Utility Commission (“Commission”) adopts the following proposal for decision.

PROPOSAL FOR DECISION

I. INTRODUCTION

This case involves a petition filed on August 8, 2023, by Deerfield Wind, LLC (“Deerfield Wind” or the “CPG Holder”) with the Vermont Public Utility Commission (“Commission”) requesting an amendment to the certificate of public good (“CPG”) issued to Deerfield Wind by the Commission on April 16, 2009, and amended on July 17, 2009, in Docket No. 7250. Specifically, Deerfield Wind seeks an amendment to Condition 19 of the CPG so that its decommissioning reporting and funding obligations occur on a three-year cycle consistent with Commission Rule 5.904(B)(4), rather than on the annual basis currently required by the CPG.

In today’s proposal for decision I recommend that the Commission approve the petition with conditions.

II. PROCEDURAL HISTORY

On April 16, 2009, in Docket No. 7250, the Commission issued a CPG to Deerfield Wind authorizing the construction and operation of a 15 turbine 30 MW wind electric generation facility on approximately 80 acres in the Green Mountain National Forest, located in Searsburg and Readsboro, Vermont (the “Project”). On July 17, 2009, in Docket No. 7250, the CPG was amended.

On August 8, 2023, Deerfield Wind filed its current petition.

On September 27, 2023, the Vermont Department of Public Service (“Department”) filed comments on the petition.

III. DISCUSSION

Deerfield Wind seeks an amendment to the condition of its CPG related to its decommissioning funding requirements. Specifically, Deerfield Wind seeks to amend the CPG so that its decommissioning reporting and funding obligations occur on a three-year cycle consistent with Commission Rule 5.904(B)(4), rather than on the annual basis currently required by the CPG.

When the Commission issued Deerfield Wind a CPG for the Project on April 16, 2009, the Commission had not yet adopted a rule governing the decommissioning of projects subject to Commission review and approval under 30 V.S.A. § 248. At that time, in the absence of a rule, the Commission imposed decommissioning requirements on a case-by-case basis and customarily imposed an annual requirement for reporting on and adjusting decommissioning fund balances similar to that imposed on Deerfield Wind in its CPG.

Since that time, the Commission adopted Commission Rule 5.900, which establishes standard requirements for the decommissioning of electric generation, electric transmission, and natural gas facilities.¹

Deerfield Wind’s petition asks that its current annual decommissioning inflation adjustment and reporting requirements be changed to reflect Commission Rules 5.904(B)(5) and 5.904(B)(6), such that the reports and required deposits (if any) be due by February 28, 2026, and every subsequent third year.² I agree with the changes in principle. However, because Deerfield Wind was granted its CPG in April 2009, application of the Rule’s requirement that fund adjustments be made and reports be filed beginning “no later than February 28 of the third year following the issuance of the CPG and every subsequent third year”³ means that the next adjustment to the fund balance and its corresponding report are due no later than February 28,

¹ Rule 5.900 took effect on August 15, 2017.

² Deerfield Wind petition at 2.

³ Commission Rule 5.904(B)(4); *see also* Commission Rule 5.904(B)(5).

2024, instead of Deerfield Wind's stated date of February 28, 2026.⁴ Subsequent adjustments and reports will then be due by February 28 every following third year.

The Department recommends that Deerfield Wind's requested changes be approved without further hearings or investigation.⁵

I recommend that the Commission find that the amendments will promote the general good of the State of Vermont because they are consistent with the decommissioning requirements adopted by the Commission in Rule 5.900.

This proposal for decision has not been circulated to the parties pursuant to 3 V.S.A. § 811 because it is not adverse to any party.

Date: December 6, 2023

A handwritten signature in cursive script, appearing to read "Jacob Davis", is written over a horizontal line.

Jacob Davis
Hearing Officer

⁴ Based on the issuance of the CPG in September of 2009, the first report would have been due by February 28, 2012, the second by February 28, 2015, the third by February 28, 2018, and the fourth by February 28, 2021. As stated, the next report is due no later than February 28, 2024 and subsequent reports shall be due no later than February 28 in 2027, 2030, and so on.

⁵ Department comments at 1.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission (“Commission”) that:

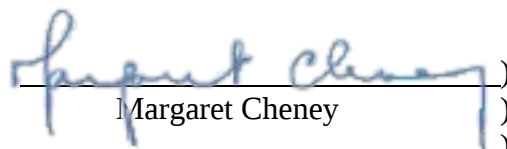
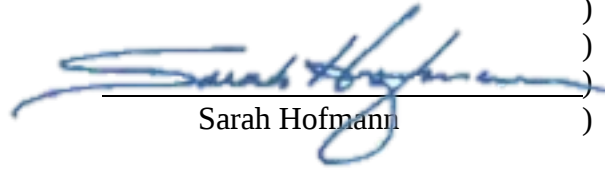
1. The findings, conclusions, and recommendations of the Hearing Officer are hereby adopted. All findings proposed by parties, to the extent that they are inconsistent with this Order, were considered and not adopted.

2. The change in the decommissioning fund requirements described above will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 248, and an amendment to the certificate of public good (“CPG”) issued on April 16, 2009, and amended on July 17, 2009, in Docket No. 7250 to that effect shall be issued in this matter.

3. All future compliance filings related to the Project must be made in the compliance subcase of this case, Case No. 23-2700-PET, using ePUC.

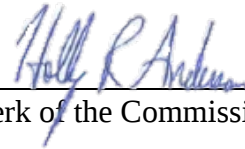
4. As a condition of this Order, Deerfield Wind, LLC must comply with all terms and conditions set out in the CPG issued and amended in Docket No. 7250 and the amendments issued in conjunction with this Order.

Dated at Montpelier, Vermont, this 6th day of December, 2023.


Margaret Cheney) PUBLIC UTILITY
) COMMISSION
) OF VERMONT

Sarah Hofmann)

OFFICE OF THE CLERK

Filed: December 6, 2023

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 23-2700-PET - SERVICE LIST

Parties:

Erin C. Brennan, Esq.
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
Erin.Brennan@vermont.gov

(for Vermont
Department of Public
Service)

Paul J.M. Quackenbush
SRH Law PLLC
PO Box 545
91 College Street
Burlington, VT 05402-0545
pquackenbush@srhlaw.com

(for Deerfield Wind,
LLC)

Andrew N. Raubvogel, Esq.
SRH Law PLLC
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
araubvogel@srhlaw.com

(for Deerfield Wind,
LLC)

Tom Shea, *pro se*
380 Lafayette Road, Unit 11-144
Seabrook, NH 03874
tomshea@alum.mit.edu