STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-2793-LCOMP

Compliance filings required by certificate of public good issued in Docket No. 7508 to Georgia Mountain Community Wind, LLC, for a 5-wind turbine electric generation facility, with associated electric and interconnection facilities, in Milton and Georgia, Vermont	

Order entered: 06/09/2025

ORDER REGARDING OVERDUE COMPLIANCE FILING AND REQUEST FOR COMMENTS ON PROPOSED MODIFICATIONS TO ORDER REQUIREMENTS AND CPG CONDITIONS RELATED TO DECOMMISSIONING SECURITY OBLIGATIONS

I. INTRODUCTION

On June 11, 2010, the Vermont Public Utility Commission ("Commission") issued an order and certificate of public good ("CPG") in Docket No. 7508 authorizing the construction and operation by Georgia Mountain Community Wind, LLC ("CPG Holder") of an electric generation facility ("Project").

In Case No. 24-2874-INV, the Commission established a grace period for fulfilling overdue compliance filing obligations and to provide guidance to entities with compliance filing obligations. To encourage entities with overdue compliance filing obligations to come into compliance, the Commission established a six-month grace period during which time the Commission did not issue penalties for failure to make a compliance filing in a timely manner.[1]

The overdue compliance filing grace period ended on March 13, 2025.

As we explained in the order establishing the grace period, the Commission is building a compliance page on our website where CPG holders and entities that are out of compliance will be listed by CPG number along with the installer/developer and representative/lawyer[2] associated with the case, if relevant. Entities will remain on the webpage until they come into

[1] The grace period did not apply to violations of CPG conditions or other 30 V.S.A. § 30 infractions unrelated to compliance filings.

[2] Attorneys who have entered a notice of appearance in a siting case are not relieved of their representation obligations upon issuance of a CPG. Unless the Commission has granted a request to withdraw and substitute counsel or a representative, the attorney of record remains for compliance purposes.

compliance. An entity is not in compliance until all required filings have been made and the filings satisfy the underlying compliance requirements.[3]

We are issuing this order to notify the CPG Holder in this case that you are out of compliance with one or more conditions in your CPG. Below, we describe the conditions that must be met to come into compliance.

II. <u>Overdue Compliance</u>

The CPG requires the CPG Holder to file a decommissioning plan for Commission approval and requires the CPG Holder to post a letter of credit to secure the full amount of the decommissioning fund ("Fund").[4] On December 9, 2011, the Commission issued an order in Docket No. 7508 partially approving the CPG Holder's proposed decommissioning plan. That order requires the CPG Holder to

> adjust the Fund annually to account for inflation based on the then-current [Consumer Price Index ("CPI")], as maintained by the Bureau of Labor Statistics, and file an annual Fund status report with the revised estimated cost of decommissioning and the new Fund total by January 1 of each year. In addition, [the CPG Holder] shall only increase the value of the Fund for inflation, and shall not reduce the value of the Fund if the CPI has a negative value at the time the annual adjustment is calculated.[5]

The CPG Holder has not filed the required annual report on the status of the decommissioning fund or an updated letter of credit that adjusted the dollar value of the security since 2019 and must do so within four weeks from the date this order is issued. The filing must

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[3] This case was originally listed on the Commission's overdue compliance webpage. However, because the Commission issued an order within the last three years approving an updated letter of credit for this Project even though the dollar value of the letter of credit had not been adjusted for inflation, the Commission has removed from this case from the overdue compliance webpage. If the CPG Holder does not comply with the requirements in this order within four weeks, the Commission may again list this case on the overdue compliance webpage and the case would remain on that webpage until all required filings have been made satisfying the underlying compliance requirements.

[4] *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-turbine, 12 MW wind 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,"* Docket No. 5708, CPG issued 6/11/10 at 3 (condition 12).

The November 9, 2012, amended CPG issued in Docket No. 5708 did not modify condition 12 of the original CPG.

[5] Docket No. 5708, Order of 12/9/11 at 8.

explain how the inflation adjustment was calculated and include the required report on the status of the decommissioning fund.

The CPG Holder is encouraged to consult the Commission's website (https://puc.vermont.gov/electric/letter-of-credit) where information about filing decommissioning securities is posted, including a sample letter of credit and drawing certificate, a sample escrow agreement and escrow claim certificate, and a sample surety bond and surety bond demand notice. Guidance on how to file decommissioning securities in ePUC is also provided on that webpage.

The CPG Holder has until four weeks from the date this order is issued to come into compliance.

Failure to comply with this order may result in the imposition of a civil penalty against the CPG Holder pursuant to 30 V.S.A. § 30.

III. Proposed CPG Modifications

The CPG was issued for this Project before the Commission had 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 the CPG Holder 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.[6] Sections 5.904(B)(4), (5), and (6) establish requirements for reporting on and adjusting the amount of a project's decommissioning fund on a three-year cycle. Sections 5.904(7) and (8) establish the processes for the Commission to access the fund and for the disbursement of any fund balance upon completion of decommissioning.

Further, the Commission has updated its standard decommissioning conditions to incorporate the use of the word "must" instead of "shall" and the ability for a CPG holder to utilize alternative forms of financial security as contemplated by Commission Rule 5.904(3).

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[6] Commission Rule 5.900 took effect on August 15, 2017.

The Commission is interested in standardizing CPG conditions related to decommissioning. Moving to a three-year update cycle, rather than an annual update cycle, will reduce administrative costs for both CPG holders and the Commission. Requiring all adjustments to decommissioning cost estimates to be made using the same inflation index will streamline the Commission's review of those adjustments. Allowing the use of alternative forms of financial security will provide CPG holders with additional flexibility while still ensuring that funds for decommissioning will be available when needed.

Therefore, the Commission is seeking comments on whether condition 12 of the November 9, 2012, amended CPG that was issued in Docket No. 7508 should be replaced with the following conditions. The new CPG conditions would supersede any conflicting provisions in the December 9, 2011, order in Docket No. 7508 and any conflicting provisions in the previously approved decommissioning plan for the Project.

12. Any letter of credit used to secure the decommissioning fund must be an irrevocable standby letter of credit that: (i) names the Commission as the sole beneficiary of the letter of credit; (ii) is issued by an A-rated financial institution; (iii) includes an automatic extension provision or "evergreen clause"; and (iv) is bankruptcy remote. If the CPG Holder elects to use an alternative form of financial security to secure the decommissioning fund, that security must be established solely for the benefit of the Commission.

33. Every three years the CPG Holder must file a report with the Commission, the Vermont Department of Public Service, and each party to this proceeding, describing any adjustments and changes to the decommissioning fund in the previous three-year period. This report must be filed no later than February 28 of the third year following the issuance of the CPG and every subsequent third year.

34. The value of the decommissioning fund must be adjusted for inflation every three years based on the net positive change in the annual average of the U.S. Bureau of Labor Statistics' Northeast Urban Consumer Price Index for the preceding three-year period.

35. The facility's standby letter of credit or other form of financial security must be adjusted every three years to reflect changes to the decommissioning fund as provided in condition 34, above. Revisions must be made no later than February 28 in conjunction with the

report required pursuant to condition 33, above. The Commission may require more frequent adjustments due to facility or site conditions.

36. The Commission has the right to draw on the facility's irrevocable standby letter of credit or other form of financial security to pay for decommissioning in the event that the CPG Holder has not begun decommissioning activities within 90 days of a Commission order directing decommissioning.

37. Upon completion of all decommissioning and site restoration activities, the CPG Holder must request a determination from the Commission that the CPG Holder's decommissioning obligations have been satisfied. Upon the Commission's determination that the decommissioning obligations have been satisfied, the Commission will terminate the facility's letter of credit or other form of financial security.

Any comments on these proposed CPG amendments must be filed by four weeks from the date this order is issued.

SO ORDERED.

Dated at Montpelier, Vermont, this 9th day of June, 2025.

Edward McNamara	)	PUBLIC UTILITY
	)	
Margaret Cheney	)	COMMISSION
	)	
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: June 9, 2025

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)

PUC Case No. 24-2793-LCOMP - SERVICE LIST

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