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VERMONT PUBLIC

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VIA HAND DELIVERY

October 19, 2012

Mrs. Susan Hudson, Clerk
VERMONT PUBLIC SERVICE BOARD
Peoples United Bank Building, 4th Floor
112 State Street
Montpelier, VT 05620-2701

Re: Docket No. 7628
Petition of Green Mountain Power Corp. et al.
Noise Compensation Plan

Dear Mrs. Hudson:

On behalf of Green Mountain Power Corporation ("GMP"), I enclose clean and marked copies of a revised Noise Compensation Plan ("Plan") intended to address the Public Service Board ("Board") Order dated October 5, 2012.

In response to the Order, this will confirm that Section VI of the Plan does not extend the residential development prohibition beyond decommissioning of the KCW Project, if a successor project is a telecommunications facility or a renewable generation project that does not implicate the need for a noise standard.

Very truly yours,

SHEEHY FURLONG & BEHM P.C.


Peter H. Zamore

PHZ/mgt

Enclosures

cc: Attached Docket No. 7628 Service List

PSB Docket No. 7628 - SERVICE LIST

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STATE OF VERMONT
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Docket No. 7628

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)

NOISE COMPENSATION PLAN

The Public Service Board ("Board") Order of May 31, 2011, as amended by its Order dated October 5, 2012, included the following Condition #42:

The Petitioners, prior to operation of the project, shall propose a plan for Board approval to provide some form of compensation to landowners of parcels of land existing as of the date of May 31, 2011, who can demonstrate that residential development of their land which otherwise could have occurred, can no longer happen solely because project-related sound levels at new residences on those parcels or subdividable portions thereof would exceed 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr).

Green Mountain Power Corp. ("GMP") will address the requirements of Condition #42 as follows:

- I. Any person or entity ("Landowner") seeking compensation under this Plan must demonstrate continuous ownership by the Landowner since May 31, 2011 of a parcel of land or subdividable portion ("Parcel").
- II. The Landowner must demonstrate that the Parcel can be developed for residential use. Such demonstration shall include, at minimum, a showing that the Parcel is zoned for residential development and there are no apparent obstacles that would prevent such development, such as overly steep slopes, lack of proper access, or an apparent inability to obtain an applicable permit.

- III. The Landowner must demonstrate that the area of the Parcel that can be developed for residential use experiences project-related sound levels that exceed 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr) due to the KCW Project. The method used to measure sound levels must be consistent with those sections of the Kingdom Community Wind Final Monitoring Protocol approved by the Board in its May 16, 2012 Order that address logistics, outside to inside testing, background sound measurements, and data processing.
- IV. The Landowner must demonstrate that the KCW Project-related sound levels are the sole reason preventing residential development in the identified area of the Parcel.
- V. Upon compliance with the above conditions, a level of compensation shall be determined. The level of compensation shall be calculated as the difference between: 1) the appraised value (assuming residential construction cannot occur) of that portion of the Parcel as to which KCW Project-related sound levels exceeding 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr) are the sole reason preventing residential development; and 2) the appraised value of the same portion of the Parcel assuming residential development can occur. The Landowner may rely on the assessed value reflected in the town's grand list or may seek an independent appraisal.
- VI. As a condition to payment of required compensation, Landowner shall be required to execute and deliver to GMP an easement deed in recordable form, together with such other instruments as may be required and are customarily executed in connection with a transfer of an interest in real property, to prohibit development on the Parcel of any structure that may be used or occupied for residential purposes for a period ending as of the decommissioning of the Project or any successor renewable energy technology development project subject to a CPG from the Board (or any analogous permit from any successor agency) containing the same or more restrictive noise standard. Said prohibition to be created by deed of negative easement or restrictive covenant running with the land. The easement deed shall further convey to GMP, its successors and assigns, and to owners of the land subject to the KCW Project, a right, easement and privilege for the same period of time to generate and maintain, at any and all times, noise that is audible on and over the Parcel at levels in excess of 45 dBA, and a release of any claims relating to such noise occurring prior to the date of the easement deed. The form of easement deed shall be in standard Vermont warranty deed form.

- VII. In the event GMP disputes any of the information presented by the Landowner, GMP shall have the opportunity to respond and present evidence supporting its position. Disputed issues may include whether the identified area of the Parcel can be developed for residential use, whether Project-related sound levels exceed the Board's standard in the identified area of the Parcel, whether such sound levels are the sole reason preventing residential development and the appropriate level of compensation.
- VIII. Any required compensation shall be provided to the Landowner no later than 90 days following compliance with the above requirements, except to the extent there is a dispute concerning compliance, in which case the payment shall be made within 90 days after the dispute has been resolved.
- IX. All disputes arising under this Plan shall be resolved by the Board, based on contested case procedures, including opportunity for discovery under the Board's rules, such as the right under Board Rule 2.214(A) and V.R.C.P. 34 to enter the Parcel for the purpose of obtaining information relevant to the dispute, including measurement of noise levels and valuation of the identified area of the Parcel.

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Docket No. 7628

Petition of Green Mountain Power Corporation,)
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good, pursuant to 30 V.S.A. Section, 248, to construct up)
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Vermont, and the installation or upgrade of)
Approximately 16.9 miles of transmission line and)
Associated substations in Lowell, Westfield and Jay, Vermont)

ADJOINING LANDOWNER NOISE COMPENSATION PLAN

The Public Service Board ("Board") Order of May 31, 2011, as amended by its Order dated October 5, 2012, included the following Condition #42:

The Petitioners, prior to operation of the project, shall propose a plan for Board approval to provide some form of compensation to ~~adjoining~~ landowners of parcels of land existing as of the date of May 31, 2011, who can demonstrate that residential development of their land which otherwise could have occurred, can no longer happen solely because project-related sound levels at new residences on those parcels or subdividable portions thereof would exceed 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr).

Green Mountain Power Corp. ("GMP") will address the requirements of Condition #42 as follows:

- I. Any person or entity ("~~Adjoining~~ Landowner") seeking compensation under this Plan must demonstrate continuous ownership by the ~~Adjoining~~ Landowner since May 31, 2011 of a parcel of land or subdividable portion ("Parcel"), ~~adjoining the Kingdom Community Wind project ("KCW Project") boundaries.~~
- II. The ~~Adjoining~~ Landowner must demonstrate that the Parcel can be developed for residential use. Such demonstration shall include, at minimum, a showing that the Parcel is zoned for residential development and there are no apparent obstacles that would prevent such development, such as overly steep slopes, lack of proper access, or an apparent inability to obtain an applicable permit.

- III. The ~~Adjoining~~ Landowner must demonstrate that the area of the Parcel that can be developed for residential use experiences project-related sound levels that exceed 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr) due to the KCW Project. The method used to measure sound levels must be consistent with those sections of the ~~Board-approved~~ Kingdom Community Wind Final Monitoring Protocol approved by the Board in its May 16, 2012 Order that address logistics, outside to inside testing, background sound measurements, and data processing.
- IV. The ~~Adjoining~~ Landowner must demonstrate that the KCW Project-related sound levels are the sole reason preventing residential development in the identified area of the Parcel.
- V. Upon compliance with the above conditions, a level of compensation shall be determined. The level of compensation shall be calculated as the difference between: 1) the appraised value (assuming residential construction cannot occur) of that portion of the Parcel as to which KCW Project-related sound levels exceeding 45 dBA (exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr) are the sole reason preventing residential development; and 2) the appraised value of the same portion of the Parcel assuming residential development can occur. The ~~Adjoining~~ Landowner may rely on the assessed value reflected in the town's grand list or may seek an independent appraisal.
- VI. As a condition to payment of required compensation, ~~Adjoining~~ Landowner shall be required to execute and deliver to GMP an easement deed in recordable form, together with such other instruments as may be required and are customarily executed in connection with a transfer of an interest in real property, to prohibit development on the Parcel of any structure that may be used or occupied for residential purposes for a period ending ~~as of~~ after the decommissioning of the Project or any successor renewable energy technology development project subject to a CPG from the Board (or any analogous permit from any successor agency) containing the same or more restrictive noise standard. Said prohibition to be created by deed of negative easement or restrictive covenant running with the land. The easement deed shall further convey to GMP, its successors and assigns, and to owners of the land subject to the KCW Project, a ~~perpetual-right, easement and privilege~~ for the same period of time to generate and maintain, at any and all times, noise that is audible on and over the Parcel at levels in excess of 45 dBA, and a release of any claims relating to such noise occurring prior to the date of the easement deed. The form of easement deed shall be in standard Vermont warranty deed form.

VII. In the event GMP disputes any of the information presented by the ~~Adjoining~~ Landowner, GMP shall have the opportunity to respond and present evidence supporting its position. Disputed issues may include whether the identified area of the Parcel can be developed for residential use, whether Project-related sound levels exceed the Board's standard in the identified area of the Parcel, whether such sound levels are the sole reason preventing residential development and the appropriate level of compensation.

VIII. Any required compensation shall be provided to the ~~Adjoining~~ Landowner no later than 90 days following compliance with the above requirements, except to the extent there is a dispute concerning compliance, in which case the payment shall be made within 90 days after the dispute has been resolved.

IX. All disputes arising under this Plan shall be resolved by the Board, based on contested case procedures, including opportunity for discovery under the Board's rules, such as the right under Board Rule 2.214(A) and V.R.C.P. 34 to enter the Parcel for the purpose of obtaining information relevant to the dispute, including measurement of noise levels and valuation of the identified area of the Parcel.