

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: 10/3/2014

PROCEDURAL ORDER RE NOISE VIOLATIONS

On August 8, 2013, the Public Service Board ("Board") conducted a technical hearing to consider the imposition of sanctions under 30 V.S.A. § 30 against Green Mountain Power Corporation ("GMP") for violations of the noise standard imposed on the operation of GMP's wind electric generation facility located in Lowell, Vermont (the "Project"), that were identified in GMP's required reports covering sound monitoring that took place during the Fall and early Winter of 2012 and the Winter of 2013.¹

Following the hearing, briefs were filed by GMP, the Department of Public Service ("Department"), and Donald and Shirley Nelson (the "Nelsons"). GMP filed a reply brief. No other party filed a reply brief.²

1. Condition 39 of the Board's Order and Certificate of Public Good approving the Project requires GMP to "construct and operate the proposed project so that the turbines emit no prominent discrete tones pursuant to ANSI standards at the receptor locations, and project-related sound levels at any existing surrounding residences do not exceed 45 dBA(exterior)(Leq)(1 hr) or 30 dBA (interior bedrooms)(Leq)(1 hr)." Docket 7628, Order of 5/31/11 at 165; CPG dated 5/31/11 at 8.

2. On September 10, 2013, the Nelsons filed a correction to their initial brief.

In their briefs, both the Department and the Nelsons discussed the desirability of continuous noise monitoring for the Project. In its reply brief, GMP noted that it was willing to investigate the possibility of continuous monitoring and to review its findings with the Department.

Given the interest expressed by the Department and the Nelsons in the possibility of continuous monitoring, as well as GMP's stated willingness to explore such a possibility, on September 25, 2013, we directed GMP to undertake an investigation into the feasibility of continuous monitoring for the Project and to file a report with the Board reflecting its findings within 90 days.³

What followed was a series of filings from the parties and a number of orders issued by the Board in an attempt to forge consensus among the parties on a continuous sound monitoring program for the Project as mitigation for any civil penalty that might otherwise be imposed pursuant to § 30. As part of the parties' attempt to reach consensus, the Department sought to engage the services of two acousticians, Mr. Stephen Ambrose and Mr. Robert Rand, who had the support of some of the intervenors in this proceeding, to act as subcontractors to the firm Acentech, Inc., a consultant retained by the Department in this matter.

On September 30, 2014, the Department filed a letter with the Board in which it states that for reasons both personal and professional, Mr. Ambrose and Mr. Rand have decided not to participate in the effort to develop a consensus sound monitoring proposal. As a result, the Department "proposes to implement the continuous monitoring proposal we filed on May 14, 2014 unless otherwise directed by the Board."⁴

Based on the briefs and subsequent monitoring proposals and comments thereon filed by the parties, the Board was previously prepared to render its decision with respect to the violations of the sound standard applicable to the Project. However, given representations from the parties regarding their attempts to reach consensus, the Board held its decision in abeyance. Given the recent developments described in the Department's letter of September 30, 2014, the Board understands that there will not be a consensus proposal for continuous sound monitoring for the

3. Docket 7628, Order of 9/25/13 at 2.

4. Letter from Geoffrey Commons, Esq., to Susan M. Hudson, Clerk of the Board, dated September 30, 2014.

Project and will therefore proceed to render its decision on this matter based on those previous filings. In the interim, the parties are reminded that the current investigation is one into the imposition of civil penalties under § 30 and the possible voluntary implementation of a continuous monitoring program as a mitigating factor in determining the amount of any civil penalty to be imposed. Accordingly, any actions the parties undertake with respect to the implementation of a continuous monitoring program prior to the Board's decision in this investigation are at their own risk.

SO ORDERED.

Dated at Montpelier, Vermont, this 3rd day of October, 2014.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/John D. Burke</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/Margaret Cheney</u>	)	

OFFICE OF THE CLERK

FILED: October 3, 2014

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)