

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: 3/19/2014

PROCEDURAL ORDER AND NOTICE OF WORKSHOP
RE NOISE MONITORING REPORTS

I. INTRODUCTION AND PROCEDURAL HISTORY

By Order dated May 16, 2012, the Public Service Board ("Board") approved a noise monitoring plan (the "Plan") proposed by Green Mountain Power Corporation ("GMP") governing the conduct of noise monitoring activities to take place at GMP's wind electric generating facility located at Lowell Mountain in Lowell, Vermont (the "Project"). Pursuant to the Plan, GMP was to conduct a series of nine monitoring periods, with one period taking place during construction of the Project, and the remaining eight periods taking place during winter, spring, summer, and fall, over the first two years of Project operation.¹

GMP conducted noise monitoring of the Project during the fall of 2012, and the winter, spring, summer, and fall of 2013. After each of these monitoring periods, GMP filed a Sound Compliance Testing Report ("Report") setting forth the results of each monitoring period, as required by the Plan.

1. Plan at 2.

After GMP filed its Report for the fall 2013 monitoring period, Donald and Shirley Nelson (the "Nelsons") asked that the Board reject GMP's Fall 2013 Report, asserting that the report failed to include certain information, and that the Report was presented in a manner that was overly difficult to understand.²

On February 20, 2014, GMP responded to the Nelsons' criticisms of the Fall 2013 Report, setting forth the reasons it believes the Report was fully compliant with the details of the Plan. GMP also acknowledged a need to make the Report easier to understand and proposed that there be a workshop to discuss the content of the Reports as well as opportunities to bring more clarity to future Reports.³

On February 21, 2014, the Vermont Department of Public Service filed comments stating a workshop such as the one proposed by GMP could be helpful, particularly if it led to more understandable, transparent and comprehensive reporting. The Department recommends that, if a workshop is held, GMP and its sound consultant should be prepared to respond to the specific complaints and questions raised by the Nelsons in their letters.⁴

By letter dated February 26, 2014, the Nelsons responded to the proposal for a workshop stating, "We would be happy to participate in such a process, with one significant condition – that GMP agrees to pay the costs for us to hire qualified noise experts to assist us in participating." The Nelsons state that they need to have a qualified expert to represent their interests at a workshop, and to even the playing field between themselves, GMP and the Department.⁵

2. Letter from Donald and Shirley Nelson to Susan M. Hudson, Clerk of the Board, dated February 3, 2014. The Nelsons supplemented their request that the Board reject the Fall 2013 Report with additional letters dated February 5 and 19, 2014.

3. Letter from Joshua Castonguay, GMP, to Susan M. Hudson, Clerk of the Board, dated February 20, 2014, at 1 and 4.

4. Letter from Geoffrey Commons, Esq., to Susan M. Hudson, Clerk of the Board, dated February 21, 2014, at 1 and 2.

5. Letter from Shirley Nelson to Susan M. Hudson, Clerk of the Board, dated February 26, 2014.

By letter dated February 26, 2014, GMP expressed its opposition to the Nelsons' recommended condition, noting that the Department has the authority to retain an expert for the workshop, and to bill back any resulting costs to GMP.⁶

II. DISCUSSION

The Nelsons, the Department and GMP all agree that the content of the Reports could be presented in a more meaningful and understandable way for the average reader, and that a workshop would be an appropriate vehicle for attempting to develop a new format for the content of the Reports.

We also agree that a collaborative effort such as a workshop is an appropriate means for attempting to find consensus on how the information gathered by GMP's noise monitoring efforts should be presented in the Reports so that they are understandable and easily accessible to the average reader. Accordingly, Board staff will conduct a workshop for the purpose of discussing the presentation of information in and the formatting of the seasonal sound monitoring Reports. The workshop will be limited to this purpose and will not be a forum for discussion of the sound standard applicable to the Project or the methodology that GMP uses when it conducts its sound monitoring of the Project. Topics of discussion will be restricted to how the information gathered in the remaining seasonal sound monitoring periods will be presented in the Reports that must be filed after each monitoring session. While attendance at the workshop will be open, participation in the workshop will be restricted to those parties in Docket 7628 that were granted standing to intervene on the issue of noise.

We have considered the Nelsons' position that they will only participate in a workshop if GMP agrees to fund the Nelsons' retention of a noise expert to represent their interests at the workshop. By letter dated February 26, 2014, GMP stated that it would not agree to that request, and we conclude that there is no statutory basis for us to impose such an obligation on GMP. Pursuant to 30 V.S.A. § 20(a)(1), the Board and the Department each are authorized to retain expert witnesses and advisors to assist them, and potentially other State agencies, in certain specified proceedings. However, that statute does not grant the Board the authority to require petitioners to fund the retention of experts for any other parties to Board proceedings.

6. Letter from Peter H. Zamore, Esq., to Susan M. Hudson, Clerk of the Board, dated February 26, 2014.

Additionally, even if such authority did exist, we would not find this workshop to be an appropriate occasion to exercise that authority. As explained above, the workshop will not involve the discussion or resolution of any highly technical matters. Rather, it will be limited to a discussion of how GMP should present the information that it gathers during upcoming seasonal sound monitoring periods so that the average reader of future Reports is able to understand the Reports and easily access and identify the information in the Reports that underlies their conclusions regarding compliance with the applicable sound standards.

The Nelsons are, of course, still encouraged to attend the workshop so that other parties, particularly GMP, can better understand the difficulties that the Nelsons experienced in their review of the Reports. It is our expectation that such increased awareness on GMP's part will lead to future Reports being formatted with greater clarity and ease of understanding for the average reader.

III. NOTICE OF WORKSHOP

Board staff will conduct a workshop in Docket 7628 for the limited purpose of discussing and revising the manner in which Green Mountain Power Corporation presents and formats its seasonal sound monitoring information in the reports it is required to file with the Board after each such seasonal monitoring period. The workshop will be held on Friday, April 25, 2014, at 1:30 P.M., in the Board's hearing room on the third floor of the People's United Bank Building, 112 State Street, Montpelier, Vermont. Participation in the workshop will be restricted to those parties in Docket 7628 that were granted standing to intervene on the issue of noise.

SO ORDERED.

Dated at Montpelier, Vermont, this 19th day of March, 2014.

<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: March 19, 2014

ATTEST: s/Judith C. Whitney
Deputy 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)