

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7508

Petition of Georgia Mountain Community Wind, LLC,)
for a Certificate of Public Good, pursuant to 30 V.S.A.)
Section 248, authorizing the construction and operation)
of a 5-wind turbine electric 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")

Order entered: 11/28/2012

ORDER RE: OPERATING PROTOCOL AND BIRD AND BAT MONITORING

On June 11, 2010, the Public Service Board ("Board") issued a Certificate of Public Good ("CPG") authorizing the construction of a wind generation facility by Georgia Mountain Community Wind, LLC ("GMCW"), subject to certain conditions, including the following conditions related to bat and bird mortality:

28. GMCW shall file, for Board approval, a plan to incorporate adjustments to the Project's operations to minimize bat fatalities. Parties will have three weeks, from the date this plan is filed with the Board, to comment on the plan. GMCW cannot commence operations until the plan is approved.

29. GMCW shall file a plan, for Board approval, that studies the impact of the Project on bat mortality. The plan must include two years of bat fatality monitoring studies. GMCW shall also propose, for Board approval, a third-party with the necessary experience to conduct the study. GMCW must also grant the Vermont Agency of Natural Resources ("ANR") permission to access the Project area during the post-construction monitoring, hand over all bat carcasses to ANR for species verification and research, and prepare and make the results of post-construction monitoring studies available to ANR within 90 days of the end of data collection. Parties will have three weeks, from the date this plan is filed with the Board, to comment on the plan. GMCW cannot commence operations until the plan is approved.

30. In order to monitor the effect of the Project on the small-footed bat, GMCW shall conduct three years of post-construction mortality studies, during the period June 1 through July 31. GMCW shall file a mortality study plan for Board approval, such plan should be consistent with the requirements of the general bat mortality plan. Parties will have three weeks, from the date this plan is filed with

the Board, to comment on the plan. GMCW cannot commence operations until the plan is approved.

31. GMCW shall file a proposed bird mortality plan for approval by the Board. The plan must include two years of post-construction bird mortality monitoring. Parties will have three weeks, from the date this plan is filed with the Board, to comment on the plan. GMCW cannot commence operations until the plan is approved.

On February 23, 2012, GMCW filed an *Operating Protocol for Bats* ("Operating Protocol").

On March 14, 2012, the Agency of Natural Resources ("ANR") filed a letter commenting on the Operating Protocol.

On March 26, 2012, GMCW filed a letter stating that it intended to work with ANR in developing a final Operating Protocol and bat mortality monitoring plans. GMCW further stated: "In light of the above, no further Board action is required at this time."

On July 24, 2012, GMCW filed a *Bird and Bat Post-construction Monitoring Plan* ("Monitoring Plan"). GMCW's filing represented that the Monitoring Plan and the Operating Protocol were acceptable to ANR.

On November 5, 2012, the Clerk of the Board issued a memorandum requesting that ANR confirm that it: (a) finds GMCW's Operating Protocol, filed on February 23, 2012, to be acceptable without the inclusion of the recommendations it filed on March 14, 2012; and (b) finds GMCW's proposed Monitoring Plan, filed on July 24, 2012, to be acceptable.

On November 13, 2012, via e-mail, ANR filed a letter with the Board stating that it finds the Monitoring Plan acceptable and recommending that the Operating Protocol be amended to reflect the following:

1. The time period for adjustments should be from thirty (30) minutes before sunset. The operational adjustments can end thirty minutes before sunrise.
2. The first year of operational adjustments can commence on July 1, provided the operational adjustments may change in subsequent years depending on the results of the first year of monitoring. Based on the monitoring that takes place from the June 1-June 30 period, the operational adjustments may need to be modified to commence on June 1, 1012 (sic), to address endangered bats.¹

1. Letter from Judith L. Dillon, Esq. to Susan M. Hudson, Clerk of the Board, dated 11/13/12.

On November 15, 2012, GMCW filed a letter stating that it had no objections to ANR's November 13 recommendations. However, GMCW did note that the Operating Protocol already states that "all turbines will be curtailed at 5.0m/s from July 1 to September 30, from 30 minutes before sunset to sunrise, and when temperature is above 49 degrees Fahrenheit." Further, GMCW noted that the Operating Protocol was not intended to address how changes to curtailment are dealt with based upon monitoring results; rather, such changes are addressed in the separate Monitoring Plan.²

No other party filed comments regarding the Monitoring Plan or the Operating Protocol.

Based on the Board's review and the comments filed by ANR and GMCW, we approve the Operating Protocol and Monitoring Plan submitted by the Petitioner in compliance with Conditions 28, 29, 30, and 31 subject to the following conditions:

1. The time period for adjustments shall be from thirty (30) minutes before sunset. The operational adjustments may end thirty minutes before sunrise.
2. The first year of operational adjustments may commence on July 1, provided the operational adjustments may change in subsequent years depending on the results of the first year of monitoring. Based on the monitoring that takes place from the June 1 to June 30 period, the operational adjustments may need to be modified to commence on June 1, 2014, to address endangered bats.³

GMCW shall revise the Operating Protocol and Monitoring Plan where necessary to reflect these conditions, and shall file the revised documents with the Board.

2. Letter from Andrew Raubvogel, Esq. to Susan M. Hudson, Clerk of the Board, dated 11/15/12.

3. ANR's recommendation appears to be at odds with GMCW's anticipated date for commencing operations. GMCW anticipates becoming operational by December 31, 2012. Accordingly, the first monitoring period would occur between June 1 and June 30, 2013. This means that the first opportunity to make operational adjustments would be in June of 2014. Our approval is based on this understanding of ANR's recommendation. If our understanding is incorrect, the parties must bring it to our attention immediately.

SO ORDERED.

Dated at Montpelier, Vermont, this 28th day of November, 2012.

<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: November 28, 2012

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)