

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7867

Application of Seneca Mountain Wind, LLC, for)
authority, pursuant to 30 V.S.A. §§ 246 and 248, to)
install four temporary meteorological stations, two)
in the Town of Brighton, Vermont, and one each in)
the towns of Ferdinand and Newark, Vermont)

Order entered: 9/14/2012

ORDER RE: CLARIFICATION OF THIRD PROCEDURAL ORDER

On August 15, 2012, I issued an Order titled *Third Procedural Order Re: Notice Requirements, Stay of Docket, and Motion for Intervention* ("*Third Procedural Order*"). In today's Order, I will clarify the scope of permissible comments for adjoining landowners who received notice of Seneca Mountain Wind, LLC's ("SMW") proposed meteorological tower project ("Project") as a result of the *Third Procedural Order*.

In the *Third Procedural Order*, I determined that SMW's application was incomplete because it had not properly notified all landowners of record whose property adjoined the parcel on which the proposed Project would be located.¹ Consequently, I vacated the existing procedural schedule and stayed proceedings in this Docket so that this notice defect could be corrected.² I also directed SMW to provide proper notice of its application, a copy of that application, and copies of the June 29 *Procedural Order*, the July 30 *Second Procedural Order*, and the *Third Procedural Order*, to any adjoining landowners newly identified as a result of the *Third Procedural Order*.³ Any landowners first receiving notice as a result of the *Third Procedural Order* were given 30 days to file comments on the application and motions to intervene in this proceeding. However, the *Third Procedural Order* stated that any such comments and motions to intervene must be limited to the significant issues specified in the

1. Docket 7867, Order of 8/15/12 at 6

2. Docket 7867, Order of 8/15/12 at 6.

3. Docket 7867, Order of 8/15/12 at 6.

June 29 *Procedural Order*.⁴

Upon further consideration, I have determined that the scope of comments and motions to intervene to be filed by any newly identified adjoining landowners should not have been limited in this fashion. Had SMW properly notified these adjoining landowners at the outset, they would have been able to comment and seek intervention without such a restriction. Accordingly, in today's Order I conclude that such a restriction should not be imposed on newly identified adjoining landowners because there is no basis for restricting their ability to fully participate in this proceeding.

Accordingly, any adjoining landowners who received notice of SMW's Project from SMW pursuant to the *Third Procedural Order* may file comments and motions to intervene without the restriction imposed in the *Third Procedural Order*. Furthermore, any such adjoining landowner who may elect to file comments or request a hearing must make a showing that SMW's application raises a significant issue regarding one or more of the Section 248 substantive criteria listed in Section 3.3 of the application form. Such a showing must go beyond general or speculative claims, and provide specific information regarding potential impacts for the criteria. In addition, comments must be directly related to the temporary meteorological station.⁵

Because the newly identified adjoining landowners are not on the Public Service Board's service list, I will provide copies of today's Order to any newly identified adjoining landowners listed on SMW's revised list of adjoining landowners filed as a result of the *Third Procedural Order*.

4. Docket 7867, Order of 8/15/12 at 7. The issues identified in the June 29 *Procedural Order* are the possibly adverse effect of: the Hawk Rock MET tower installation on black bear food sources and peregrine falcon habitat; the Hawk Rock MET tower installation on rare, threatened, or endangered species or natural communities; the Bull Mountain MET tower installation on black bear food sources; and the Brighton MET tower installation on black bear food sources. Docket 7867, Order of 6/29/12 at 11-12. The *Third Procedural Order* inadvertently referred to the June 29 *Procedural Order* as the *Second Procedural Order*.

5. The comment and review process for any future request to construct a wind generation facility will be conducted if and when such a petition is filed with the Board.

SO ORDERED.

Dated at Montpelier, Vermont, this 14th day of September, 2012.

s/ Bridgette Remington
Bridgette Remington, Esq.
Hearing Officer

OFFICE OF THE CLERK

FILED: September 14, 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)