STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of GlobalFoundries U.S. 2 LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 231, to operate a Self-Managed Utility	)))	Case No. 21-1107-PET
Petition of Green Mountain Power Corporation for approval to modify service territory pursuant to 30 V.S.A. § 249	)))	Case No. 21-1109-PET

CONSERVSATION LAW FOUNDATION'S
MOTION TO INTERVENE

The Conservation Law Foundation ("CLF") timely moves to intervene in the above captioned matters as of right under Public Utility Commission ("Commission") Rule 2.209(A) or, in the alternative, by permission under Public Utility Commission Rule 2.209(B). CLF incorporates the following memorandum of law in support of its motion.

MEMORANDUM

Under Commission Rule 2.209(A), "a person shall be permitted to intervene in any proceeding" upon "timely application" and "when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest and where the applicant's interest is not adequately represented by existing parties." *See* Commission Rule 2.209(A)(3). CLF satisfies these requirements.

CLF's Motion to Intervene is timely because it was filed by the May 3, 2021 intervention deadline established by the Commission in its Scheduling Conference Order.[1] CLF's

[1] Scheduling Conference Order (April 16, 2021) at 2.

intervention does not unduly delay the proceedings or otherwise prejudice the parties or public.[2]

CLF and its members have substantial interests that may be adversely impacted by the outcomes of the above-captioned matters. In these companion proceedings, the Commission will consider whether the general good of Vermont is promoted by the GLOBALFOUNDRIES U.S. 2 LLC ("GF") proposal to create and operate what GF refers to as a self-managed utility (the "proposed SMU"), which will operate under minimal regulation. GF asks the Commission to maintain regulatory jurisdiction in only three narrow areas: (1) to ensure GF does not sell retail electricity; (2) over transmission lines carrying electricity to GF; and (3) over the Transmission Memorandum of Understanding. GF asks to be exempted from all other regulations, including but not limited to the renewable energy requirements of 30 VSA Ch. 89, the efficiency requirements of 30 V.S.A. § 209, and the myriad requirements contained in 30 VSA Ch. 3, 30 VSA §§ 204, 218, 218c, 219, 225, and Commission Rule 5.200. At the same time, GF does not articulate how its proposal will impact the State's ability to meet the greenhouse gas emission reduction requirements established by the Legislature in the Global Warming Solutions Act ("Act 153"), or the goals of the Vermont Comprehensive Energy Plan, including meeting 90% of the state's energy needs through renewable energy sources by 2050. *See* 30 V.S.A. 202a, as amended by Act 153. Moreover, GF does not articulate a jurisdictional basis for the Commission to establish the proposed SMU. The Commission's decision could thus have important and far-reaching precedential consequences important to CLF and its members.

In addition, Green Mountain Power Corporation ("GMP") seeks to modify its service territory to remove GF's load—which accounts for approximately 8% of GMP's current total

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[2] CLF is communicating in good faith with the various parties to propose an amended scheduling order to the Commission by Friday, May 7, 2021. Amending the schedule is consistent with the Commission's initial Scheduling Conference Order, which contemplates such revisions.

load. GMP's Petition does not adequately address the potential impacts caused by the proposed modification, even though extricating Vermont's largest electricity user from Vermont's largest electricity provider will have far-reaching impacts on, among other things, ratepayers, other Vermont utilities, the development of renewable energy in Vermont, the goals of the Vermont Comprehensive Energy Plan, the ability of the State to meet the emission reduction requirements of Act 153, energy assistance, and other programs.

CLF and its members have direct and substantial interests in these matters. CLF is a private, non-profit membership organization dedicated to the protection and responsible use of New England's natural resources, including resources directly and indirectly impacted by the generation, transmission, and distribution of electricity. CLF represents the interests of its members by working to mitigate harms to the natural environment and our members' communities caused by pollution and greenhouse gas emissions from electricity generation, transmission, and distribution. CLF also represents the interests of its members by working to secure the public health and environmental benefits associated with improved energy efficiency. CLF represents the interests of its members by working to mitigate aesthetic and other injuries caused by greenhouse gas emissions to the lands and waters our members use, enjoy, and own. Intervention will allow CLF to protect its members' substantial interests in clean and cost-effective electricity, improved energy efficiency, a reduction of pollution and greenhouse gas emissions, and protection of Vermont's natural resources.

Moreover, CLF purchases electricity from GMP to operate CLF's Vermont office. As a nonprofit organization, CLF's overhead costs, including electricity costs, are an important consideration in determining the extent to which CLF can fund and staff its programmatic and advocacy priorities. The proposed plan to extricate Vermont's largest electricity user from

GMP's service territory will have a particularized impact on CLF as a nonprofit organization. In addition, the economic interests of CLF's Vermont members as ratepayers also will be directly affected by these proceedings. For all these reasons, CLF and its members have substantial interests that may be adversely impacted by the outcomes of these proceedings.

CLF's substantial interests in the outcomes of these matters cannot be protected in any other proceeding or forum. GF and GMP seek redress by the Commission. The petitions are pending here alone. The Commission is the only forum in which CLF and its members can protect their substantial interests impacted by GF and GMP's petitions.

CLF and its members' interest are not adequately represented by any other party or pending intervenor in these proceedings. The broad interests of the Department of Public Service as a statutory party are not the same as the specific interests held by CLF and its members, which differ in kind and degree. *See also In re Vermont Public Power Supply Authority*, 140 Vt. 424, 433 (1981) ("[I]t is the culmination of the private interests of each of Vermont's citizens which produces the public interest or the general good, and not the other way around. The Legislature has attempted to provide some representation for the citizenry when no private parties come forward to contest the issues involved, or the parties which do come forward do not fairly represent the needs of most Vermonters. 30 V.S.A. § 217. That provision, however, does not preclude those who wish to come forward on their own from doing so."). Nor are the interests of the utility and renewable energy parties and pending intervenors the same as those held by CLF and its members. CLF's perspective is distinct from the other parties' perspectives. The novel issues presented in these proceedings may have far-reaching implications, and therefore require careful consideration of differing interests. In addition, CLF has participated in multiple matters before the Commission and possesses the expertise and experience to advocate for its' substantial interests.

In the alternative, CLF satisfies the Commission's permissive intervention requirements. The Commission may allow intervention "when the applicant demonstrates a substantial interest which may be affected by the outcome of the proceeding." *See* Rule 2.209(B). In reviewing the application, "the Commission shall consider (1) whether the applicant's interest will be adequately protected by other parties; (2) whether alternative means exist by which the applicant's interest can be protected; and (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public." *Id.* These considerations substantially mirror those addressed above. As noted, CLF's timely application does not unduly delay the proceedings or otherwise prejudice the parties or public. CLF's interests are not adequately protected by any other party, and there is no alternative means to protect CLF's interests.

CLF respectfully requests that it be granted full intervenor status in these proceedings.

Dated at Montpelier, Vermont, this 3rd day of May 2021.

CONSERVATION LAW FOUNDATION

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