

**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,	)	Case No. 21-1107-PET
to operate a Self-Managed Utility	)	

Petition of Green Mountain Power Corporation for	)	
approval to modify service territory pursuant to	)	Case No. 21-1109-PET
30 V.S.A. § 249	)	

**CONSERVATION LAW FOUNDATION’S RESPONSE
TO THE JOINT MOTION TO AMEND SCHEDULE**

Conservation Law Foundation (“CLF”) hereby responds to the Department of Public Service (“DPS”) and Agency of Natural Resources’ (“ANR”) Joint Motion to Amend the Schedule, dated October 12, 2021 (the “Motion”). ANR and DPS propose extending all deadlines by approximately four weeks because at least some of the greenhouse gas emissions data provided to ANR and DPS by GlobalFoundries U.S. 2 LLC (“GF”), upon which ANR and DPS relied when negotiating the Letter of Intent (“LOI”), has upon inquiry by ANR been discovered to be materially inaccurate. *See Motion at 2.*¹

Any potential agreement between ANR, DPS and GF should be predicated on accurate and transparent data. Because the LOI was not predicated on such data, and because it appears that the proposed Memorandum of Understanding (“MOU”) cannot be negotiated based upon such data by October 15, 2021, CLF believes there is good cause to grant an extension as to the MOU deadline and the corresponding discovery and expert witness deadlines. *See V.R.C.P. 16.2; Vermont Public Utility Commission Rule 2.103.* A blanket four-week extension, however,

¹ It appears that both the inaccurate estimate of 29,000 MTCO₂e and the tentatively revised estimate of 10,000 MTCO₂e are pieces of information responsive to CLF’s Second Set of Discovery Requests on GF, *see Q.CLF.GF.4*, that have not been produced by GF in these Proceedings.

may not be necessary – especially as to the briefing schedule. *See* V.R.C.P. 16.2.

CLF proposes only a two-week extension of the briefing schedule for the following reasons. GF produced its fifth supplemental discovery response on October 12, 2021, consisting of approximately 400 pages of materials relevant to the briefs due on October 18, 2021. However, multiple portions of the produced materials have been redacted by GF and have not been made available to the Commission or Parties in an unredacted form. Earlier today (October 13, 2021), the undersigned conferred with counsel for GF about the nature of the information beneath the redactions. GF’s counsel confirmed that the redacted information is non-privileged. GF’s counsel said the redactions pertain to allegedly confidential information about rent obligations and leased spaces that GF’s counsel said are not directly about electricity. The undersigned requested that GF please produce the fifth supplemental production in an unredacted form, pursuant to the Protective Agreement already entered by the Parties, because confidentiality is not an appropriate basis to continue withholding discoverable information. *See also* Commission Order at 5 (Oct. 6, 2021) (“[W]e overrule GlobalFoundries’ objections to discovery requests on the basis that the information sought is confidential or proprietary.”). GF’s counsel said that they would confer with their client and respond within in a couple of days to CLF’s request to produce unredacted versions of the fifth supplemental request.

GF’s timeline will not allow the Parties to review the unredacted materials prior to the October 18 initial brief deadline. Given the relevance of the information at issue in GF’s fifth supplemental production to the briefs currently due on October 18, and given the inability of the Parties to receive and review unredacted versions prior to that deadline, CLF proposes that the briefing schedule be extended by two weeks:

- Initial brief deadline of November 1, 2021

- Reply brief deadline of November 15, 2021

A two-week extension of the briefing deadlines will allow GF to produce unredacted discovery as provided for by the Protective Agreement and pursuant to the Commission's Order dated October 6, 2021, allow reasonable time for the Parties to review that unredacted information after it has been produced, and then allow the Parties to complete the initial briefs by November 1, 2021.

Dated at Burlington, Vermont, this 13th day of October 2021.

CONSERVATION LAW FOUNDATION

By: 
Chase S. Whiting, Staff Attorney
Conservation Law Foundation
15 East State Street, Suite 4
Montpelier, VT 05602
(802) 223-5992 x. 4013
(802) 223-0060 (fax)
cwhiting@clf.org

cc: service list via ePUC