

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Docket No. 8585

Investigation in to Meteorological Tower at     )  
700 Kidder Hill Road in Irasburg, Vermont     )

August 8, 2016

**RESPONSES OF THE DEPARTMENT OF PUBLIC SERVICE TO  
DAVID BLITTERSDORF'S FIRST SET OF DISCOVERY REQUESTS**

The Department of Public Service ("Department" or "DPS") hereby submits the following response to David Blittersdorf's ("Respondent") First Set of Discovery Requests, dated July 1, 2016.

**GENERAL OBJECTIONS**

1. The Department objects to any instructions contained in Respondent's discovery requests to the extent such instructions purport to place on the Department greater requirements or reserve greater rights to Respondent than are permitted by the Vermont Rules of Civil Procedure as made applicable to Board proceedings through Board Rule 2.214 (A).
2. The Department objects to any request for information or production of document(s) that is (or are) subject to the attorney-client privilege, constitute work product, are protected under state or federal law or are proprietary, competitively sensitive or confidential, constitute draft and/or non-final documents and/or constitute communications containing or concerning any of the above.
3. The Department objects to the discovery requests to the extent that they (a) are overbroad or unduly burdensome; (b) are cumulative; (c) call for the production of documents not in the possession, custody, or control of the Department; (d) call for the review, compilation, or production of publicly available documents that could be obtained by the requesting party in a less burdensome manner, including on a public website; (e) call for the review, compilation and/or production of documents already in Respondent's possession, custody, or control; (f) are vague and/or ambiguous; (g) seek information not reasonably calculated to lead to the discovery of admissible evidence; or (h) call for the review, compilation, or production of a voluminous number of documents at great expense to the Department.
4. Each of these General Objections shall be incorporated by reference into the below-referenced objections and responses as if expressly restated therein. The Department does not hereby waive any objections, and it reserves the right to later raise any additional, available objections.

**DEPARTMENT'S RESPONSES TO DISCOVERY REQUESTS**

**Interrogatories**

1. **With respect to each of the following interrogatories, requests to admit, and requests to produce, identify by name, position and telephone number each person who assisted in the Department's response thereto.**

**2. Please describe in detail any and all recommendations has the Department made between 2006 and the present with respect to penalties under 30 V.S.A § 30 in any Public Service Board dockets regarding meteorological stations that were installed without a Certificate of Public Good pursuant to:**

- a. 30 V.S.A. § 246**
- b. 30 V.S.A. § 248.**

**A.Resp:DPS.1-1-2:** The Department has not made any recommendations between 2006 and the present with respect to penalties under 30 V.S.A. § 30 in any PSB dockets regarding meteorological stations that were installed without a Certificate of Public Good.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

**3. Identify each person whom the Department expects to call as a witness in Docket 8585.**

**A.Resp:DPS.1-1-3:** The Department has not yet made any determination as to who, if anyone, it will call as a witness in the proceeding.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

4. **For each person whom the Department expects to call as witness in Docket 8585, please state each of the following:**
- a. **the subject matter on which the witness is expected to testify;**
  - b. **the substance of the facts and opinions as to which the witness is expected to testify;**
  - c. **a summary of the grounds for each opinion as to which the witness is expected testify;**
  - d. **if the witness is an expert, identify the subject matter in which they have expertise and their qualifications to testify as to that subject matter.**

**A.Resp:DPS.1-1-4:** The Department not yet made any determinations as to who, if anyone, it will call as a witness in the proceeding. See A.Resp:DPS.1-1-3.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

5. **With respect to the Vermont Anemometer Loan Program, please identify all of the following:**
- a. **any and all current Department employees who worked in any capacity on said Program;**
  - b. **any and all former Department employees who worked in any capacity on said Program; and**
  - c. **any and all individuals and entities who worked under contract on the Program.**

**A.Resp:DPS.1-1-5a:** Andrew Perchlik, Anne Margolis, Kelly Launder.

**A.Resp:DPS.1-1-5b:** Erin Lawrence, Jon Becker, Rob Ide, Diane Reynolds.

**A.Resp:DPS.1-1-5c:** None, but the following worked on the Program under a Grant Agreement: Vermont Technical College, John Kidder.

Person Responsible for Response: Andrew Perchlik  
Title: Fund Manager  
Date: August 8, 2016

- 6. Please identify any and all communications regarding permitting requirements for meteorological stations that the Department had with:**
- a. Participants in the Anemometer Loan Program**
  - b. John Kidder**
  - c. The House Committee on Natural Resources and Energy**
  - d. The Senate Committee on Natural Resources and Energy**
  - e. Any federal agency, department or division**
  - f. Members of the public.**

**A.Resp:DPS.1-1-6:** Please see attached documents Attachment A.Resp:DPS.1-1-6a-b. All other communications responsive to this request were forwarded to Respondent's counsel on December 3, 2015 in response to a public records request dated November 19, 2015.

Person Responsible for Response: Andrew Perchlik  
Title: Fund Manager  
Date: August 8, 2016

**7. With respect to each of your answers to question 6 above, please identify:**

- a. The date of any and all such communication(s)**
- b. The form of any and all such communication(s)**
- c. the content of any and all such communication(s).**

**A.Resp:DPS.1-1-7:** See A.Resp:DPS.1-1-6.

Person Responsible for Response: Andrew Perchlik  
Title: Fund Manager  
Date: August 8, 2016

8. **For any request to admit below that is denied, please explain in detail the basis for such denial.**

**9. With respect to any and all document(s) produced by the Department in response to Request to Produce number 7 below, please provide each and every basis for the Department's conclusion that:**

**a. The document supports any fact(s) set out in David Blittersdorf's testimony in Docket 8585**

**b. The document contradicts any fact(s) set out in David Blittersdorf's testimony in Docket 8585.**

**A.Resp:DPS.1-1-9.** The Department has no documents that are responsive to Request to Produce number 7 in its custody, possession, or control. See A.Resp:DPS.1-3-7.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

**Requests to Admit**

- 1. Admit that the meteorological station at 700 Kidder Hill Road in Irasburg, Vermont is not temporary.**

**A.Resp:DPS.1-2-1:** The Department has no basis to either admit or deny this statement, other than the Respondent's own statements.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

2. **Admit that the Department does not have any documents or things in its possession, custody or control indicating that David Blittersdorf knew or had reason to know that a Certificate of Public Good was required for the meteorological station at 700 Kidder Hill Road at the time he installed it.**

**A.Resp:DPS.1-2-2:** Admit.

Person Responsible for Response: Geoffrey Commons

Title: Director for Public Advocacy

Date: August 8, 2016

3. **Admit that the Department does not have any documents or things in its possession, custody or control indicating that David Blittersdorf intended to violate the law by installing the meteorological station at 700 Kidder Hill Road without a Certificate of Public Good.**

**A.Resp:DPS.1-2-3:** Admit.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

**Requests to Produce**

- 1. Please produce all correspondence between the Department and David Blittersdorf or any representative of David Blittersdorf regarding the meteorological station at 700 Kidder Hill Road in Irasburg, Vermont.**

**A.Resp:DPS.1-3-1:** The Department has no responsive documents in its custody, possession, or control other than a written request from Department Commissioner Recchia to Mr. Blittersdorf for information related to the meteorological station. It is the Department's understanding that Respondent's counsel is in possession of Commissioner Recchia's letter, as she replied to the letter on September 10, 2015.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

2. **Please produce all correspondence (including but not limited to emails, text messages, and letters) between David Blittersdorf and the Department regarding permitting requirements for meteorological stations.**

**A.Resp:DPS.1-3-2:** The Department has no responsive documents in its custody, possession, or control.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

3. **Please produce all documents (including but not limited to emails and text messages) in the Department's possession, custody or control bear on David Blittersdorf's intent when he installed the meteorological station at 700 Kidder Hill in Irasburg, Vermont.**

**A.Resp:DPS.1-3-3:** The Department has no responsive documents in its custody, possession, or control, other than the Respondent's statements submitted in connection with this docket.

Person Responsible for Response: Geoffrey Commons

Title: Director for Public Advocacy

Date: August 8, 2016

4. **Please produce all documents in the Department's possession, custody or control that bear on whether the installation of the meteorological station at 700 Kidder Hill in Irasburg, Vermont substantially harmed or might have substantially harmed:**
- a. **the public health safety, or welfare**
  - b. **the interests of utility customers**
  - c. **the environment**
  - d. **the reliability of utility service**
  - e. **the financial stability of the company.**

**A.Resp:DPS.1-3-4:** The Department has no responsive documents in its custody, possession, or control.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

5. **Please produce all documents (including but not limited to emails and text messages) in the Department's possession, custody or control that bear on David Blittersdorf's record of compliance.**

**A.Resp:DPS.1-3-5:** The Department has no responsive documents in its custody, possession, or control.

Person Responsible for Response: Geoffrey Commons

Title: Director for Public Advocacy

Date: August 8, 2016

6. **Please produce all documents that the Department intends to enter into evidence in Docket 8585 with respect to any and all:**
  - a. **Aggravating circumstance(s) in the matter under investigation in Docket 8585**
  - b. **Mitigating circumstance(s) in the matter under investigation in Docket 8585**

**A.Resp:DPS.1-3-6:** The Department has no responsive documents in its custody, possession, or control. It has not yet made any determinations as to evidence that it may seek to enter into the record in this proceeding.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

7. **With respect any facts set out in David Blittersdorf's testimony in Docket 8585, please produce any and all document(s) in the Department's possession, custody or control that:**
- a. **Support such facts**
  - b. **Contradict such facts**

**A.Resp:DPS.1-3-7:** None.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

- 8. Please produce any documents (including but not limited to emails and text messages) in the Department's possession, custody or control regarding the Petition of Endless Energy Corporation for an Amended Certificate of Public Good, Pursuant to 30 V.S.A. Section 248(j), for Installation of Three Temporary Wind Measurement Towers on Little Equinox Mountain in Manchester, Vermont (Docket No. 6154).**

**A.Resp:DPS.1-3-8:** The Department has no responsive documents in its custody, possession, or control.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

9. **Please produce any documents (including but not limited to memoranda, notes, and testimony) in the Department's possession, custody or control related to the legislative establishment (via 2009 Vt. ACT 45 and 2009 Vt. H. 446) of the anemometer loan program's eligibility for American Recovery and Reinvestment Act (ARRA) funds, which is codified in 30 V.S.A § 8015(h)(3).**

**A.Resp:DPS.1-3-9:** Please see attached documents Attachment A.Resp:DPS.1-3-9a-e.

Person Responsible for Response: Andrew Perchlik  
Title: Fund Manager  
Date: August 8, 2016

**10. Please produce all documents in the Department's possession, custody or control with respect to the Anemometer Loan Program that evidence the following with respect to that Program:**

- a. David Blittersdorf's involvement**
- b. NRG Systems' involvement.**

**A.Resp:DPS.1-3-1:** Any documents that may be responsive to this request were forwarded to Respondent's counsel on December 3, 2015 in response to a public records request dated November 19, 2015.

Person Responsible for Response: Geoffrey Commons  
Title: Director for Public Advocacy  
Date: August 8, 2016

**11. Please produce any and all communications identified in the Interrogatories numbered 6 and 7 above.**

**A.Resp:DPS.1-3-11:** See A.Resp:DPS.1-1-6 and 1-1-7.

Person Responsible for Response: Andrew Perchlik  
Title: Fund Manager  
Date: August 8, 2016

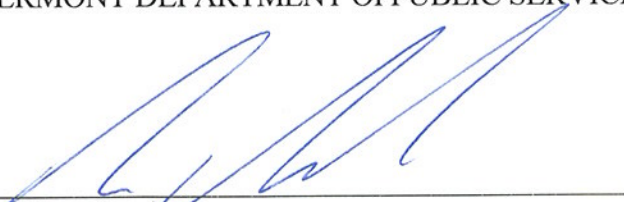
12. **For any request to admit that is denied in whole or part, please produce any and all evidence in the Department's possession, custody or control that formed a basis for that response.**

- 13. Please produce all documents identified, referenced, relied upon, or referred to in responding to the interrogatories and requests to admit above.**

Dated at Montpelier, Vermont, this Eighth day of August, 2016.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: \_\_\_\_\_

  
Geoffrey Commons  
Director for Public Advocacy  
Aaron Kisicki  
Special Counsel

cc: Docket 8585 Service List  
Judith Whitney, PSB Clerk