

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 24-2797-PET

Petition of Vermont Renewable Gas, LLC for a certificate of public good, pursuant to 30 V.S.A. § 248(j), for approval to construct and operate a 2.2 MW farm methane facility in Lyndon, Vermont	
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**VERMONT DEPARTMENT OF PUBLIC SERVICE’S RESPONSE TO
MOTIONS TO INTERVENE**

On October 4, 2024, Conservation Law Foundation (“CLF”) filed a motion to intervene in the above-captioned matter pursuant to Commission Rule 2.209. Steve Dolgin filed a motion to intervene on October 9, 2024. In proceedings before the Vermont Public Utility Commission (“Commission”), Commission Rule 2.209 governs intervention. Rule 2.209(A) provides that a person is entitled to intervene, upon timely application:

- (1) when a statute or Commission rule confers an unconditional right to intervene; or
- (2) when the applicant claims an interest in the matters that must be resolved in the proceeding and the applicant is so situated that the disposition of the proceeding may as a practical matter impair or impede the applicant’s ability to protect that interest, unless the applicant’s interest is adequately represented by existing parties.

Rule 2.209(B) provides for permissive intervention:

- (1) when a statute or Commission rule confers a conditional right to intervene; or
- (2) when an applicant’s claimed interest shares a question of law or fact in common with the matters that must be resolved in the proceeding.

The Commission’s consideration of permissive intervention must include whether the intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public. Rule 2.209(C) provides the Commission with further discretion to impose certain restrictions on an intervenor’s participation. The Vermont Department of Public Service (“Department”) has reviewed the motions filed by CLF and Mr. Dolgin and addresses each below.

I. CLF

CLF requests full intervenor status, stating that it has unresolved questions regarding the proposed 2.2 MW electric generation facility (“Project”). CLF’s motion suggests that the Project’s impacts may affect its interests and those of its members, specifically: interests in the orderly development of the region, air purity, the natural environment, natural resources, and public health and safety.¹ These issues fall within the scope of review under 30 V.S.A. § 248.² The Department does not oppose CLF’s intervention but asks that its participation be appropriately limited. While the motion seeks “full” intervenor status, the issues raised implicate two specific criteria: §§ 248(b)(1) and (b)(5).

Furthermore, CLF has not shown a distinct interest in the orderly development of the region under § 248(b)(1). A primary question under this criterion is whether the Project complies with applicable provisions in the relevant municipal and regional plans.³ The Town of Lyndon (“Town”) is a party in this proceeding, and the Petitioner has provided letters received from the Lyndon Planning Commission and the Northeastern Vermont Development Association (“NVDA”).⁴ Adjoining landowners have also intervened. CLF has not pointed to any nearby property owned or occupied by itself or its members, nor has it identified non-profit purposes relevant to preventing violations of local or regional planning standards in Lyndon.⁵ As such, CLF has not demonstrated a particularized interest under § 248(b)(1) and its more generalized interest

¹ See CLF Motion to Intervene at 2, filed 10/4/24.

² See 30 V.S.A. §§ 248(b)(1), (5).

³ See 30 V.S.A. §§ 248(b)(1), (b)(1)(C); see also, e.g., *In re Apple Hill Solar LLC*, 2021 VT 69, ¶¶ 43–53, 215 Vt. 523.

⁴ See Exhibits VRG-ED-3, VRG-ED-2. The NVDA is the regional planning commission for the area where the Project is proposed.

⁵ See *Petition of Otter Creek Solar LLC*, Case No. 19-0516-PET, Order of 7/12/19 at 4–5.

can be adequately represented by other parties including the Town and the Department of Public Service.⁶

For the reasons above, the Department requests that the Commission limit the scope of CLF's intervention to the issues raised under § 248(b)(5).

II. Mr. Dolgin

Mr. Dolgin filed a motion to intervene on October 9, stating that he owns an apartment building within roughly half a mile of the proposed Project and owns other property in the vicinity. Mr. Dolgin's motion cites interests relevant to the issues evaluated under §§ 248(b)(1) and (b)(5). While Mr. Dolgin's motion was filed two days after the deadline of October 7, the Department does not oppose his intervention on issues that are within the proper scope of this proceeding. As a practical matter, his participation at this stage will not create undue delay or prejudice the interests of existing parties.

III. Conclusion

For the foregoing reasons, the Department respectfully asks that the Commission limit the scope of CLF's intervention to the relevant issues under § 248(b)(5) and limit the scope of Mr. Dolgin's intervention to issues that are properly raised under the applicable § 248 criteria or are otherwise within the Commission's jurisdiction to address.

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⁶ See, e.g., *Petition of Green Mountain Power Corporation for approval of a multi-year regulation plan*, Case No. 18-1633-PET, Order of 9/24/18 at 3 (discussing holdings under the prior version of Rule 2.209); *In re Apple Hill Solar LLC*, 2019 VT 64, ¶ 19 (indicating that under the prior version of Rule 2.209(B), the claimed interest must “distinguish[] the . . . intervenor from the public generally.”).

DATED at Montpelier, Vermont this 18th day of October 2024.

Respectfully Submitted,

VERMONT DEPARTMENT OF PUBLIC SERVICE

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cc: ePUC Service List