

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), to construct and operate a 2.2 MW electric generation facility in Lyndon, Vermont	
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Order entered: 12/18/2024

ORDER GRANTING MOTIONS TO INTERVENE

I. INTRODUCTION

This case concerns a petition filed by Vermont Renewable Gas, LLC (“VRG”) requesting a certificate of public good (“CPG”), under 30 V.S.A. § 248(j), to construct and operate a 2.2 MW generation facility in Lyndon, Vermont (the proposed “Facility”). In a November 7, 2024, Order, the Vermont Public Utility Commission (“Commission”) determined that the public interest will be best served by using the full procedures of 30 V.S.A. § 248 to review the petition for a CPG.

In today’s Order, I grant with some limitations the motions to intervene separately filed by Conservation Law Foundation (“CLF”) and Steve Dolgin.

II. PROCEDURAL HISTORY

On October 4, 2024, CLF filed a motion to intervene.

On October 9, 2024, Mr. Dolgin, a nearby property owner, filed a motion to intervene.

On October 18, 2024, the Vermont Department of Public Service (“Department”) filed a response to the motions to intervene.

No other responses or comments were filed on the motions to intervene.

In a November 7, 2024, Order, the Commission stayed this proceeding until the standard-offer contract investigation is completed in Case No. 24-3359-INV. The Commission stated that the determinations on any outstanding motions to intervene will be conducted during the stay.

III. DISCUSSION AND CONCLUSION

Commission Rule 2.209 governs intervention.

Pursuant to Commission Rule 2.209(A), upon timely application, anyone may be permitted to intervene in any proceeding (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.

Pursuant to Commission Rule 2.209(B), upon timely application, a person may be permitted to intervene in any proceeding (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. In exercising its discretion, the Commission must consider whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Pursuant to Commission Rule 2.209(C), where a party has been granted intervention, the Commission may restrict that party's participation and may otherwise limit that party's participation, all as the interests of justice and economy of adjudication require.

CLF's Motion to Intervene

CLF moves to intervene as of right under Commission Rule 2.209(A) or, alternatively, by permission under Commission Rule 2.209(B). As identified in its motion to intervene, CLF seeks to participate on the following criteria: 30 V.S.A. § 248(b)(1) (orderly development) and 30 V.S.A. § 248(b)(5) (air purity, the natural environment, use of natural resources, and public health and safety).

CLF maintains that it has substantial interests that may be adversely affected by the outcome of this proceeding. CLF states it has numerous outstanding questions with respect to the facility's impacts on the natural environment and the health of its members in the surrounding area and that these questions are directly related to the substantive criteria found in Sections 248 (b)(1) and (5). CLF states that it has a direct and substantial interest in this matter because the organization is dedicated to the protection and responsible use of New England's natural resources, including resources directly and indirectly affected by the generation, transmission, and distribution of electricity. CLF states that intervention will allow it to protect its members' substantial interests in clean electricity, a reduction of pollution and greenhouse gas

emissions, and protection of Vermont's natural resources. CLF argues that its interests are not adequately represented by any other party and there is no alternative means to protect CLF's interests. CLF states that its participation will not unduly delay the proceeding or otherwise prejudice the parties or public.

The Department does not oppose CLF's intervention but asks that its participation be appropriately limited. The Department recommends the scope of CLF's intervention be limited to the issues raised under Section 248(b)(5), because CLF has not shown a distinct interest in the orderly development of the region under Section 248(b)(1) and its more generalized interest can be adequately represented by other parties including the Town of Lyndon and the Department. In support of its recommendation, the Department states that CLF has not demonstrated how it has an interest in resolving whether the Facility complies with applicable provisions in the relevant municipal and regional plans. The Department further states that CLF has not pointed to any nearby property owned or occupied by CLF or its members, nor has CLF identified any particularized interest relevant to preventing violations of local or regional planning standards in Lyndon.

I conclude that CLF has not demonstrated that it shares a question of law or fact in common with the matters under the Section 248(b)(1) criteria that must be resolved in this proceeding. CLF has not demonstrated how it has interests in resolving whether the Facility will not unduly interfere with the orderly development of the region or how the Facility complies with the land conservation measures and specific policies contained in a duly adopted regional and municipal plans. These interests are adequately represented by the Town of Lyndon and the Department.

I conclude that CLF has demonstrated that it shares a question of law or fact in common with the matters under the Section 248(b)(5) criteria that must be resolved in this proceeding. CLF has relevant interests in this proceeding because the organization is dedicated to the protection and responsible use of New England's natural resources, including resources directly and indirectly affected by the generation, transmission, and distribution of electricity. CLF's intervention will not unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Accordingly, I grant CLF's motion on a permissive basis, under Commission Rule 2.209(B), limited to the Section 248(b)(5) criteria addressing air purity, the natural environment, use of natural resources, and public health and safety.

Mr. Dolgin's Motion to Intervene

Mr. Dolgin moves for permissive intervention under Commission Rule 2.209(B). Mr. Dolgin seeks to participate on the following criteria: 30 V.S.A. § 248(b)(1) (orderly development); 30 V.S.A. § 248(b)(4) (economic benefit to the State and its residents); and 30 V.S.A. § 248(b)(5) (aesthetics, historic sites, air and water purity, the natural environment, and public health and safety).

Mr. Dolgin owns a nine-family apartment building approximately a half mile from the Facility and other land in the vicinity of the Facility. Mr. Dolgin states concern about traffic noise and control and public safety for the apartment tenants. Mr. Dolgin also states concern about the economic impact of the Facility, including impacts to his business.

The Department states that it does not oppose Mr. Dolgin's intervention on issues that are within the proper scope of the proceeding. The Department also states that Mr. Dolgin's participation will not unduly delay or prejudice the interests of existing parties.

I conclude that Mr. Dolgin has demonstrated he shares a question of law or fact in common with the matters under the Sections 248(b)(1), (4), and (5) criteria that must be resolved in this proceeding. Mr. Dolgin has interests relevant to this proceeding because he owns nearby rental property and other land in the vicinity that may be affected by the Facility. The interests of existing parties will not be unduly prejudiced by his participation. While Mr. Dolgin's motion was filed two days after the deadline established for a Section 248(j) proceeding, his motion is considered timely because the Commission is using the full procedures of 30 V.S.A. § 248 to review the petition.

Accordingly, I grant Mr. Dolgin's motion on a permissive basis, under Commission Rule 2.209(B), limited to the Sections 248(b)(1), (4), and (5) criteria identified in his motion. On the issues of economic benefit, Mr. Dolgin's participation is limited to the local and regional economic impacts of the Facility that could affect the overall economic benefit of the Facility to the State and its residents.

SO ORDERED.


Dated at Montpelier, Vermont, this 18th day of December, 2024.



Mary Jo Krolewski
Hearing Officer

OFFICE OF THE CLERK

Filed: December 18, 2024

Attest: 

Deputy Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 24-2797-PET - SERVICE LIST

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^Motion to Intervene pending.