STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8816

Petition of Swanton Wind LLC for a certificate of public good, pursuant to 30 V.S.A. § 248, for the construction of an up to 20 MW wind-powered electric generation plant powered by up to 7 wind turbines located along Rocky Ridge in Swanton, Vermont

June 14, 2017

PRO SE INTERVENORS' OBJECTION TO APPLICANT'S MOTION TO RESTRICT DISCOVERY PROCEDURES

The Pro Se intervenors as indicated in this filing object to the motion of the applicant Swanton Wind filed on June 6 , 2017 which seeks to limit discovery as follows:

1) While it is true that the PSB has the authority to limit discovery through V.R.C.P. 26(a) and (b), the Pro Se intervenors disagree that Swanton Wind meets the criteria set forth in V.R.C.P. 26(b)(1)-(3) that the discovery has been unreasonably cumulative or duplicative or obtainable from other sources; that the parties seeking discovery have had ample opportunity to obtain the information sought; or that the discovery has been unduly burdensome and expensive, taking into account the needs of the case, the amount in controversy, the limitations on the parties' resources and the importance of the issue at stake in the litigation.

2) Swanton Wind's attempt to limit the second round of discovery to 50 questions, including subparts, is based on a New Hampshire practice which it cites, which has not been adopted by the PSB. Proper rulemaking should be done if such restriction is to occur.

Upon information and belief, such a limitation has never been imposed in a PSB proceeding and great care should be taken before such a step is taken. If the PSB were to impose limitations on the number of interrogatories, what should a limitation be? Would 100 questions each be adequate? 125? Only adequate consideration of different possibilities in light of the particular project and different interests involved could prevent an arbitrary curtailment of discovery. Rulemaking would provide such guidance of how to weigh different considerations.

3) In the case of the Pro Se intervenors, a 50-question limitation would be particularly unfair, as our interests are not identical. Some live on the east side of Rocky Ridge, some on the west side. Some of the intervenors have been granted intervenor status on one criterion, e.g. aesthetics or others on water or other grounds. Given the overall number of pro se intervenors it would be manifestly unjust for the group as a group to be given such an artificial restriction. The Pro Se intervenors have already been restricted by having to submit as a group. If the Pro Se parties are further restricted to 50 questions, then they should be allowed to proceed as individuals for purposes of the second round of interrogatories. That would be the only way some individual intervenors would be able to have their particular concerns addressed. Given Swanton Wind's answers to the first round of discovery questions, where many questions went unanswered due to technical reasons (the failure of the questioner to define "industrial wind" in several questions, e.g.), the lack of answers necessitates more precise follow up questions so that a meaningful response providing the information sought can be received. Different Pro Se intervenors might have to proceed as individuals if they cannot have their concerns addressed as part of a group.

4) It would be manifestly unjust to change the rules on discovery after discovery has

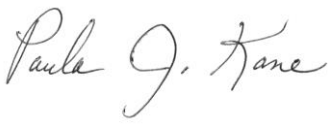
begun. If parties knew at the outset that their second round of discovery would be restricted, then they would have approached the first round differently. While Swanton Wind dismisses this as a disingenuous argument, citing the number of questions already asked, looking at V.R.C.P. 26(b)(iii) taking into account the needs of the case and the issue in controversy, it is clear that the enormity of the project being proposed, both in the size of the seven turbines (499 ft. tall) and the location of the proposed project near a large number of homes and summer homes; a fragile Vermont lake; a busy Vermont highway, and a recreation trail, that discovery should not be limited. It is to be expected that there would be many questions from abutting neighbors, other people affected both in terms of views, sounds, real estate values, integrity of wells, etc. as well as from state agencies charged with protecting the natural resources and environment. Swanton Wind's statement that, "The public good is not served by pouring unlimited resources into a proceeding regarding a proposed renewable energy project in a state that needs more renewable energy generation to meet its goals" is in itself disingenuous. It basically contends that the PSB should curtail discovery and get on with granting its project request, whether or not parties and intervenors get the information they seek. Pro Se intervenors contend that it is not in the public good to give parties' and intervenors short shrift so that Swanton Wind can proceed without delay. The fact that Vermont has a goal of more renewable energy is neither here nor there in terms of this particular project. All wind turbine projects are not necessarily in the public good. Depending on size, location and who and what is affected, some may be, some may not. Swanton Wind's statement is further disingenuous as it is unlikely that this project will help count as towards Vermont

meeting its renewable energy goals since the petitioner will in all likelihood be selling the electricity out of state and that other state will be getting the renewable energy credits.

5) Pro Se intervenors object to the attempt to limit depositions. Swanton Wind exaggerates the number of parties who would be involved. In the case of depositions, the Pro Se intervenors would act as one, leaving the represented parties and state agencies to do their own depositions, which would be the case in any filing, even with those with fewer intervenors. It would behoove all that there be cooperation and coordination by the deposers, however, that would necessitate longer time periods prior to any such discovery if it occurs so that that necessary coordination could occur.

6) The Pro Se intervenors request that the Public Service Board either deny outright or defer any ruling on limiting discovery. They ask that prior to any ruling on discovery limitation, that the PSB rule on the proposed schedule put forth by the Public Service Department in its filing of June 2nd 2017. This filing points out the substantial defects in Swanton Wind's petition in light of the PSB's ruling in related case Docket No. 8571 pertaining to a requested approval of a purchase power agreement by Swanton Wind. Given the disapproval and the lack of appeal of that ruling, the PSD points out that Swanton Wind needs to supplement its petition in order to be able to make a prima fascia case of meeting the requirements for a certificate of public good. The PSD's proposed schedule provides for a June 21, 2017 deadline by which Swanton Wind files notice of its intention to file a supplement and identifies a date by which it will do so, if it intends to do so. Given that a supplement, if filed, would change things, any limitation on discovery at this point is premature. The Pro Se intervenors join in the PSD's proposed schedule and request a status conference after the ruling on that proposed schedule.

Dated at Saint Albans, Vermont this 14th day of June, 2017.



s/s Paula J. Kane

FOR the PRO SE INTERVENORS

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