

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 18-1633-PET

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Petition of Green Mountain Power Corporation for approval of a multi-year regulation plan pursuant to 30 V.S.A §§ 209, 218, and 218d	
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Order entered: 09/24/2018

**ORDER DENYING MOTION TO INTERVENE**

**I. INTRODUCTION**

This case concerns the review of a multi-year regulation plan (“Plan”) proposed by Green Mountain Power Corporation (“GMP”). In today’s Order, the Vermont Public Utility Commission (“Commission”) denies a motion made by Anne Laurel Stevenson to intervene in this case because Ms. Stevenson’s interests are similar to those of Vermont ratepayers generally and, therefore, do not provide an adequate basis for Ms. Stevenson to participate as a formal party in this proceeding. The Commission acknowledges Ms. Stevenson’s interest in energy policy and invites Ms. Stevenson to file detailed public comments on GMP’s Plan. The Commission will investigate any relevant issues raised by the public in this case.

**II. SUMMARY OF MOTION AND RESPONSES**

Ms. Stevenson requests to intervene pursuant to Commission Rule 2.209(B). She identifies five interests that she believes will be affected by this proceeding. First, she states that she is a “future distributed energy resource (DER) owner . . . who is concerned that Vermont move as quickly as possible to 100% renewable power for the electric grid.” Ms. Stevenson further asserts that she is interested in “using my equipment for my personal benefit, [and ensuring that] the regulatory plan unlocks the full potential of my equipment to provide the many grid services (including but not necessarily limited to transmission congestion relief, transmission deferral, resource adequacy, distribution deferral, frequency regulation, voltage support, black start, spin/non-spin reserves, and energy arbitrage) that grid connected residential and/or vehicle batteries can offer.”

Second, Ms. Stevenson explains that she is Chair of the Town of Hartland’s Energy Committee, and though she is not representing that organization, she has “an individual

responsibility to help [it] achieve its mission of assisting residents, businesses, town personnel, and the selectboard in implementing sound economic and environmental energy decisions and helping Hartland reach Vermont's Comprehensive Energy Plan goals." Ms. Stevenson contends that the Plan does not "guarantee the removal of regulatory barriers which adversely affect these interests."

Third, Ms. Stevenson wants to protect her financial interests and promote the achievement of Vermont's energy goals by ensuring that there is a range of incentives to those investing in DER equipment. Ms. Stevenson states that she has "an interest in assuring that the rate plan approved can fairly compensate those who invest in DER, commensurate with the ongoing value of the services that their equipment provides rather than in a manner predetermined by GMP." Ms. Stevenson contends that the Plan does not contain a clear path for customers "who wish to maintain full ownership control of their equipment and want to take on the risk of being compensated without subsidy at fair market value for the services their equipment can provide."

Fourth, Ms. Stevenson asserts that she and other Hartland customers have experienced recurring power outages, including two in the past month. She states that she therefore has an interest in improving reliability in Hartland.

Fifth, Ms. Stevenson "believes that there is a causal connection between the increasing number of adverse weather events observed over the past decade and greenhouse gas emissions due to human activity, and . . . [she has] an interest in moving electric power generation toward renewable energy sources as rapidly as can be accomplished in an orderly manner."

Finally, Ms. Stevenson states that no other party to this proceeding can adequately represent her interests, which "are specific to [her] choice to oversize the solar plus battery system." She asserts that no party will be prejudiced by accepting her late intervention. She states that she will be bound by the schedule as it exists now and that accepting the late intervention will not delay the proceeding in any way.

On September 5 and 7, 2018, respectively, GMP and the Vermont Department of Public Service ("Department") responded that they did not object to Ms. Stevenson's intervention motion.

### **III. THE LEGAL STANDARD**

Rule 2.209(B) reserves to the Commission the power to grant intervenor status on a permissive basis when an applicant “demonstrates a substantial interest which may be affected by the outcome of the proceeding.” In exercising its discretionary authority under this provision, the Commission considers three factors:

- (1) whether the applicant’s interest will be adequately protected by other parties;
- (2) whether alternative means exist by which the applicant’s interest can be protected; and
- (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

In applying Rule 2.209, the Commission has consistently held that an intervenor’s interests must be sufficiently “particularized,” meaning that an intervenor must demonstrate that his or her interest in a proceeding is different from the general interests of other retail ratepayers represented by the Department.<sup>1</sup> The Vermont Supreme Court recently noted that it “agree[d]” with the Commission’s position that “[a person’s] interests as a ratepayer did not constitute a substantial, particularized interest, because [the person’s] position was not distinct from that of any other generic, individual ratepayer.”<sup>2</sup> The Court further stated that although “there is not necessarily a per se rule barring a ratepayer or group of ratepayers from articulating a substantial, particularized interest that would set them apart from generic ratepayers to a degree sufficient to allow them to intervene in a CPG proceeding,” the Commission has exercised “consistent application” of the standard requiring a substantial, particularized interest beyond just being a retail ratepayer.<sup>3</sup> In addition, the Commission has at times granted permissive intervention to intervenors who have demonstrated that they are in a “position to contribute insights over the course of the proceeding that will assist [the Commission] in developing a full record.”<sup>4</sup>

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<sup>1</sup> *Tariff Filing of Green Mountain Power Corp.*, Docket 5532, Order of 11/21/1991.

<sup>2</sup> *In re Petition of Green Mountain Power Corporation*, 2018 VT 97, ¶ 16.

<sup>3</sup> *Id.* at ¶ 18.

<sup>4</sup> *Petition of Vermont Gas Systems*, Docket 7970, Order of 4/12/2013 at 9.

#### IV. DISCUSSION AND CONCLUSION

We have carefully reviewed Ms. Stevenson's motion and conclude that her articulated interests are not sufficiently particularized to provide an adequate foundation for her participation as a party. Ms. Stevenson's interests can be divided into four groups: (1) her interests stemming from her plans to purchase a solar and battery storage system, (2) interests arising from her position as the chair of the Hartland Energy Committee, (3) her interest in reliability arising from several power outages at her home, and (4) her interest in combating climate change. We examine each of these interests in turn.

First, Ms. Stevenson describes a broad range of interests related to her plans to purchase a battery storage system, but these interests are not sufficiently distinguishable from the general interests of ratepayers who might also install a battery storage system if regulatory and market conditions are favorable. Ms. Stevenson has not adequately explained why her choice to "oversize" her solar and battery system makes her interests different from those of other customers who would install battery systems and why the Department cannot represent her interest in receiving fair compensation.

Second, Ms. Stevenson states that as the chair of the Hartland Energy Committee, she has an interest in helping the Town of Hartland and its residents meet Vermont's energy goals. The Commission is not persuaded that Ms. Stevenson has a substantial interest that may be affected by the outcome of this proceeding based on her role as the Chair of the Hartland Energy Committee and her personal interest in state energy policy. Ms. Stevenson's motion also does not explain why the Department, which is statutorily responsible for drafting the Comprehensive Energy Plan, is not able to adequately represent her interest in Vermont meeting its energy goals.<sup>5</sup>

Third, Ms. Stevenson states that there are monthly and even weekly power outages in Hartland and that she has an interest in improving grid service in her area. It is possible that a single ratepayer, or group of ratepayers, could demonstrate that they have a substantial and particularized interest in reliability if it were clear that they were disproportionately affected by a reliability problem. However, the Commission is not persuaded that Ms. Stevenson's interest in reliability is sufficiently differentiated from retail customers generally to support her

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<sup>5</sup> 30 V.S.A. § 202.

intervention. For example, Ms. Stevenson has not alleged that the power outages in Hartland have affected her differently than electric customers generally. Ms. Stevenson has alternative avenues to address her specific reliability concerns, such as filing a consumer complaint with the Department pursuant to Commission Rule 2.300. Additionally, Ms. Stevenson has not explained why her interest in reliability is not adequately protected by the Department in this proceeding.

Fourth, Ms. Stevenson states that she has “an interest in moving electric power generation toward renewable energy sources as rapidly as can be accomplished in an orderly manner.” All Vermonters have an interest in seeing Vermont’s renewable energy policies achieved. Therefore, Ms. Stevenson’s interest is too generalized to support her intervention request. Further, Ms. Stevenson has not explained why the Department is not able to adequately represent her interest in Vermont meeting its renewable energy goals.

In addition to determining that Ms. Stevenson’s motion does not meet the criteria of Rule 2.209, the Commission observes that Ms. Stevenson’s motion is untimely. Pursuant to the Commission’s procedural order of June 25, 2018, the deadline for intervention was August 2, 2018. Ms. Stevenson gave public comments at the Commission’s July 30, 2018, public hearing, and her August 24 motion does not address why she was unable to file that motion by the intervention deadline, which was identified in a handout provided at the public hearing. The fact that Ms. Stevenson’s motion is untimely further supports the Commission’s decision to deny her intervention request.

In closing, the Commission acknowledges that Ms. Stevenson’s motion lucidly describes her interests and reflects her concern for energy policy issues. Therefore, the Commission encourages Ms. Stevenson, and all members of the public, to participate actively in this proceeding. There are several ways that the public may participate in Commission proceedings without becoming a party. The public may file comments *at any time* during this case. The Commission will carefully review those comments and investigate any relevant issues raised by the public. Public comments serve an important function in Commission proceedings. For example, they can help the Commission identify issues overlooked by the parties or highlight areas where the evidentiary record should be developed to address the public’s concerns. The public is welcome to attend the April 1, 2019, evidentiary hearing where GMP’s witnesses will

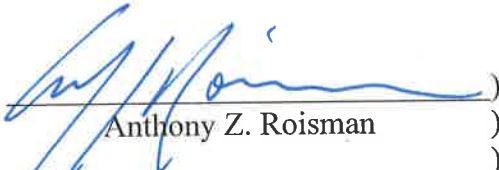
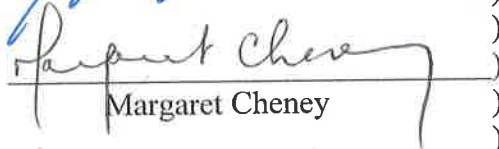
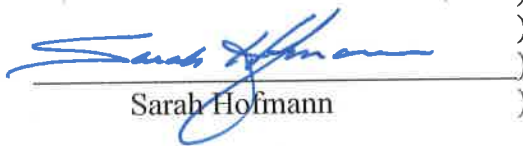
be questioned under oath, though participation in the hearing is limited to the parties.<sup>6</sup> Finally, the public may review all of the information filed in this case at <https://epuc.vermont.gov>. More information about how the public may participate in Commission proceedings is available online at: <http://puc.vermont.gov/public-participation>.

**SO ORDERED.**

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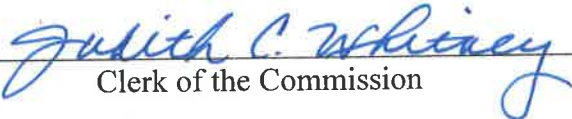
<sup>6</sup> The hearing is scheduled for April 1-5, 2019. Interested persons should follow this case online at <https://epuc.vermont.gov/>. The schedule in this proceeding is subject to change.

Dated at Montpelier, Vermont, this 24th day of September, 2018.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: September 24, 2018

Attest:   
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](mailto:puc.clerk@vermont.gov))*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.*

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