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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-1107-PET

Petition of GlobalFoundries U.S. 2 LLC requesting)
a certificate of public good, pursuant to 30 V.S.A. § 231,)
to operate a Self-Managed Utility)

Case No. 21-1109-PET

Petition of Green Mountain Power Corporation for)
approval to modify service territory pursuant to)
30 V.S.A. § 249)

MOTION TO ALTER OR AMEND

NOW COMES Vermont Public Power Supply Authority (“VPPSA”) and Burlington Electric Department (“BED”), by and through their attorneys, McNeil, Leddy & Sheahan, P.C., and pursuant to Rule 59(e) of the Vermont Rules of Civil Procedure, made applicable to this proceeding by Rule 2.103 of the Commission’s Rules of Practice, move to alter or amend the Commission’s *Order Granting BED’s and VPPSA’s Motions to Intervene* in the above-captioned matters dated April 26, 2021 (the “Order”), by deleting footnotes 7 and 8, and removing any limitations on the scope of BED’s and VPPSA’s interventions. In support of this motion, VPPSA and BED (hereinafter “Movants”) respectfully submit the accompanying Memorandum of Law.

WHEREFORE, Movants’ Motion to Alter or Amend should be granted.

DATED at Burlington, Vermont, this 29th day of April 2021.

VERMONT PUBLIC POWER SUPPLY
AUTHORITY and BURLINGTON ELECTRIC
DEPARTMENT

By: /s/ William F. Ellis
William F. Ellis, Esq.
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Their Attorneys

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO ALTER OR AMEND**

Movants respectfully submit this Memorandum of Law in support of their Motion to Alter or Amend in the above-captioned matter.

Pursuant to Rule 59, the Commission may reconsider issues previously before it and may examine the correctness of the ruling itself. *See In re Robinson/Keir Partnership*, 154 Vt. 50, 573 A.2d 1188 (1990). A Rule 59 motion gives the Commission a last opportunity to ensure the completeness and accuracy of its decision. *See Drumheller v. Drumheller*, 2009 VT 23, 185 Vt. 417, 972 A.2d 176 (2009). For the reasons set forth below, Movants respectfully request the Commission to take this opportunity to amend the Order to delete footnotes 7 and 8, and remove any limitation on the scope of their interventions in these matters.

The Petitions, if approved, will result in GlobalFoundries U.S. 2 LLC (“GF”) becoming a Self-Managed Utility (“SMU”), thereby removing its retail load from Green Mountain Power Corporation’s (“GMP’s”) service territory. In its *Notice of Petitions to Other Vermont Utilities* dated April 7, 2021, in the above-captioned matters, the Commission notified Movants and the other Vermont Distribution Utilities (“VDUs”) of

the above-captioned proceedings and indicated they “may have consequences for other Vermont utilities.” On April 12, 2021, Movants sought to intervene in these proceedings because of their potential to shift costs previously borne by GMP to the other VDUs and their customers, as well as the precedent that may be created by allowing large customers to become an SMU. In the Order, the Commission granted Movants’ motions for intervention as of right, but in doing so noted that it did not find that movants had “a substantial interest ‘in the precedent that may be created by allowing large customers to become Self-Managed Utilities’ and is not granting intervention on that basis.” *Id.* at 3, fn. 7 and fn. 8.

Movants recognized in their Motions that GF is a unique GMP customer in many ways. Other VDUs, however, have large customers that make up a larger percentage of their total retail load than what GF’s load represents to GMP’s total retail load. What qualifies a large customer to become an SMU, which in essence is a new class of utility that has not heretofore existed under Vermont law, is a matter of first impression. These proceedings have the potential for creating the conditions under which presently existing retail customers could petition to create a new utility. The precedent that could be set by these proceedings has the potential to impact Movants and all other VDUs depending upon the qualifications for becoming an SMU.

Movants have a substantial interest in seeing that the qualifications to become an SMU are stringent enough to avoid an exodus of large customers from smaller VDUs given the detrimental impacts such a loss of load would have on the VDU and its remaining customers. The loss of one of these large customers for a small VDU could have more severe impacts than those GMP will experience with the loss of GF.

It may be the Commission believes this proceeding will be non-precedential in that GF is such a unique customer. That may be true, but until the Commission makes findings of fact and establishes the standard for becoming an SMU, there remains the potential for this proceeding to have an adverse impact on Movants' interests in limiting the opportunities for large customers to become an SMU. For these reasons, Movants respectfully request the Commission to alter or amend the Order to delete footnotes 7 and 8, and remove any limitation on the scope of their interventions in this matter.

CONCLUSION

WHEREFORE, based upon the foregoing, the Commission should grant Movants' Motion to Alter or Amend the Order as requested herein.

DATED at Burlington, Vermont, this 29th day of April 2021.

Respectfully submitted,

/s/ William F. Ellis

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