

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	
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Case No. 21-1109-PET

Petition of Green Mountain Power Corporation for approval to modify service territory pursuant to 30 V.S.A. § 249	
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**DEPARTMENT OF PUBLIC SERVICE'S SUR-REPLY TO ALLEARTH
RENEWABLES, INC.'S MOTION TO ALTER SCHEDULE**

On September 20, 2021, AllEarth Renewables, Inc. (AllEarth) filed a motion with the Public Utility Commission (Commission) to alter the docket schedule for these proceedings to allow for legal briefing on jurisdictional issues in advance of any evidentiary hearings. Subsequently, on September 23, 2021, the Department of Public Service (Department) filed its surrebuttal testimony, which included a Letter of Intent (LOI) between the Department, the Agency of Natural Resources (ANR), and GlobalFoundries U.S. 2 LLC (GF) regarding a potential structure for resolving issues related to greenhouse gas emissions (GHGs). In response to the Department's surrebuttal testimony, on September 24, 2021, intervenor Conservation Law Foundation (CLF) filed a response to AER's initial motion requesting that the Commission modify the current schedules for these cases to include, *inter alia*, additional discovery and the opportunity for parties to file another round of testimony in advance of any evidentiary hearings. CLF's proposed schedule amendments do not include specific proposed dates for evidentiary hearings. Instead, CLF recommends that evidentiary hearings be scheduled only after the

Commission resolves questions related to its jurisdiction, which would not occur until some point during January, 2022, at the earliest under CLF's proposal.

The Department agrees with CLF that it would be appropriate for the schedules for these cases to be modified to allow for additional discovery on the LOI and any potential Memorandum of Understand (MOU) – should one be executed amongst any parties to this proceeding. To the extent CLF or other parties feel that it is necessary to take additional discovery on the LOI and any potential MOU, they should be afforded that opportunity. The Department also notes that depositions could be used as a discovery tool if parties find that written discovery does not allow for sufficient time. Any additional time would also hopefully allow for parties to make good faith efforts to resolve any outstanding substantive issues in advance of an evidentiary hearing.

However, as noted in the Department's initial September 23 response to AER's motion, it is neither necessary nor appropriate to defer evidentiary hearings until after legal briefing on jurisdiction. The Department's primary focus in these proceedings remains the best interest of ratepayers, who will benefit from a timely resolution of this case. The Green Mountain Power Corporation (GMP) is effectively obligated to file a full, traditional cost-of-service rate case no later than mid-January, 2022. GMP's rate filing, in turn, will be directly affected by the outcome of this proceeding. Deferring evidentiary hearings could compromise GMP's ability to file a comprehensive cost-of-service filing in early 2022, which will ultimately prejudice the Department's ability to effectively evaluate and scrutinize GMP's rate filing on behalf of GMP's ratepayers. It also important to stress that if GMP's currently proposed alternative regulation plan is approved by the Commission without substantial modification, GMP likely will not file a

subsequent full cost-of-service rate case for another five years. Having clarity on GF’s regulatory treatment as soon as practicable is a necessity for GMP’s ratepayers from the Department’s perspective.

In balancing the need for timely resolution of this proceeding with ensuring that parties have meaningful opportunity to take additional discovery and file any additional testimony in advance of evidentiary hearings, the Department proposes the following dates for the remainder of these cases:

Event	Date
Discovery/Information Requests Served on Department and Intervenors’ Rebuttal Testimony and Letter of Intent	October 1, 2021
Responses from Department and Intervenors’ to Discovery/Information Requests	October 11, 2021
Deadline to File Memorandum of Understanding or Other Stipulations Among Parties and any Supporting Testimony	October 15, 2021
Discovery/Information Requests on Memorandum of Understanding or Stipulations and Supporting Testimony (if an MOU is filed)	October 22, 2021
Discovery/Information Responses on Memorandum of Understanding or Stipulations and Supporting Testimony (if an MOU is filed)	October 29, 2021
Prefiled Testimony in Response to Memorandum of Understanding or Stipulations and Supporting Testimony (if an MOU is filed)	November 8, 2021
Evidentiary Hearings	Week of November 15, 2021 (subject to availability)
Direct Briefs	November 30, 2021
Reply Briefs	December 10, 2021

These proposed scheduling modifications would extend the final briefing deadline by approximately three weeks, but that added time will enable an additional round of discovery and testimony within deadlines that are generally consistent with Commission practice for surrebuttal testimony in contested cases. The Department also notes that the additional discovery and

testimony will be narrowly limited to one discrete (though significant) aspect of this case and will allow for the development of a more thorough evidentiary record in advance of hearings. Finally, the Department recognizes that the Commission always retains authority to re-open the evidentiary record after the completion of hearings upon request of a party or on its own motion if needed based upon information presented during the hearings. While the Department strongly opposes any unnecessary delay in resolving these cases, these proposed scheduling adjustments should allow for timely resolution of these cases.

The Department has discussed this scheduling proposal generally with counsel for ANR, CLF, GMP, and GF and anticipates that each party will file its own response.

Dated at Montpelier, Vermont, this 29th day of September, 2021.

Vermont Department of Public Service

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