



## Exhibit 4

For a thriving New England

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*via email*

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RE: Docket 21-1107 Petition of GLOBAL FOUNDRIES US 2 LLC requesting Certificate of Public Good pursuant to 30 V.S.A. § 231, to operate a Self-Managed Utility

*and*

RE: Docket 21-1109 Petition of Green Mountain Power Corporation for approval to modify service territory pursuant to 30 V.S.A. § 249

Dear Shap and Justin:

This letter follows-up on CLF's letter of June 29, our conversation on June 30, and a subsequent conversation on August 24. CLF remains concerned that GF is raising meritless objections, not adhering to the requirements of the Vermont Rules of Civil Procedure, and impermissibly withholding discoverable information. Several of those concerns are described below. Submitted with this letter is the form protective order used in PUC proceedings. As you recall, Attorney Dan Burke provided a copy of that form to counsel for GF on August 2, 2021. CLF has spoken with counsel for ACCD, DPS, and AER. They have all expressed support for entering the protective order. CLF requests that GF please sign and file the protective order to facilitate the responsible production and protection of discoverable information.

### **Response to GF's Newly Raised General Arguments**

GF contends that the only issue before the PUC is "whether GLOBALFOUNDRIES' operation of a self-managed utility to procure electricity for its Essex, Vermont facility will serve the public good." That is false. GF has jammed many discrete requests into its Petition – including

requests to be exempt from numerous statutory provisions, PUC Rules, and tax obligations. Multiple such requests made by GF have meaningful implications for greenhouse gas emissions, energy procurements, and energy efficiency. GF has provided scant information to substantiate the scope or contours of those myriad requests. Each request made by GF in its Petition is elemental to this proceeding. And discovery requests addressing GF's requests are proportional to the needs of this case. CLF's requests are well within the bounds of V.R.C.P. 26.

GF's unsupported statements about its New York facilities, chemicals used in its Essex facility, and information about operational costs remain unavailing for the reasons articulated in CLF's initial letter – to which GF has largely failed to respond. Moreover, the Commission's most recent RFI demonstrates the relevance of questions pertaining to the New York facilities. Mr. Rieder's prefiled rebuttal testimony exemplifies why chemicals used at the Essex Facility are relevant to GHG emissions. And GF put its operational costs at issue in its own filings before the Commission.

### **Interrogatories**

Interrogatory No. 2.d asks GF to identify and describe the annual energy consumption by each Person or entity operating out of the Essex facility from 2018 until the present. This information is highly relevant and proportional to GF's core assertion that the proposed SMU would service only itself. GF's supplemental response to CLF ignores four of the five entities currently operating at the Essex Facility. The entities GF has ignored include IBM, Marvell, New England Federal Credit Union, and Garnet EMS. GF's supplemental response remains deficient. The Commission's most recent RFI demonstrates the relevance and proportionality of the information pertaining to the entities operating within the proposed SMU service territory. Please supplement GF's response.

Interrogatory No. 8.a asks GF to identify and describe all efforts and persons involved in GMP and GF's MOU agreement to "use their best efforts to seek the support of the Department of Public Service." GF's response letter does not address the issues CLF raised as to GF's initial objections. The MOU is central to this petition. Discovery of information about GF's performance under that MOU is relevant and proportional. Please supplement GF's response.

Interrogatory No. 12.a seeks information relevant to, and arising from, Mr. Rieder's Direct Testimony pertaining to the "operational cost of the [Essex facility] to support manufacturing." GF's response letter does not respond to CLF's initial letter, which carefully explained why the requested information is relevant and proportional. GF should produce the requested information pursuant to a V.R.C.P. 26(c) protective order. The requested information is proportional to CLF's ability to evaluate Mr. Rieder's testimony pertaining to the "cost of electricity" in relation to the "operational cost of the site to support manufacturing." *See* Rieder at 11:17-19. Please supplement your response. If GF believes it has produced all such information, please specifically identify how and when GF provide the information.

### **Requests to Produce**

CLF's Response to "Request to Produce – Privilege," as newly raised by GF. In its initial objections to CLF's discovery requests, GF repeatedly raised a general objection predicated on an unspecified privilege. For the reasons CLF articulated in its previous letter, GF's general privilege objection failed to adhere to the plain requirements of V.R.C.P. 26(b)(6)(A). GF's response letter has failed to explain why GF continues to assert a privilege without adhering to the plain requirements of Rule 26(b)(6)(A). Instead, GF attempts to change its objection, arguing now that the "threshold objection to these requests is on relevance and proportionality grounds." This new twist does not relieve GF from the obligation to adhere to the Vermont Rules of Civil Procedure. As previously noted, V.R.C.P. 26(b)(6)(A) requires that "[w]hen a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial-preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection." Any objection predicated on privilege must adhere to the Vermont Rules of Civil Procedure. If an objection cannot be reasonably made under that rule, GF must produce all relevant and proportional materials. *See* V.R.C.P. 26. Please supplement your production accordingly.

Request to Produce No. 3 (a through f) seeks documents relevant to GF's Petition, which itself requests that the proposed SMU be subject to "de minimis" regulation. GF has again claimed a privilege without adhering to the plain requirements of V.R.C.P. 26(b)(6)(A). It strains reason to presume that every document within GF's possession, custody, and control pertaining to each exemption it seeks is privileged. Non-privileged materials created or used in the course of GF's business very likely exist and have not yet been produced. Please supplement your response by either producing the requested materials or providing sufficient information to enable CLF to assess the applicability of the privilege protection GF claims. *See id.*

Requests to Produce No. 8.a and 8.b seek documents relevant and proportional to the manner GF proposes to source energy for the Essex facility. As previously noted, GF currently sources its own energy for the Malta and East Fishkill facilities. GF's Petition seeks to do the same for the Essex facility. The Malta and East Fishkill facilities provide clear, relevant, and proportional examples of the way GF is likely to source energy for the Essex facility. These materials are relevant and proportional. If GF claims the materials are confidential, please execute the protective order sent to GF along with this letter. Please supplement GF's production.

Request to Produce No. 16 seeks the lease, rental, and use agreements; and the invoices, statements, and other documents related to each Person or entity identified in Interrogatory No. 2. GF supplemented its initial production with a Real Estate Lease Agreement pertaining to Ask-inTag LLC. GF has failed to respond to this request as to the other entities operating at the Essex



Facility, which include New England Federal Credit Union, Garnet EMS, Marvell, and IBM. The materials at issue in Request to Produce No. 16 are discoverable. Please supplement GF's production accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "Chase S. Whiting".

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