

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7970

Petition of Vermont Gas Systems, Inc. for a)
certificate of public good, pursuant to 30 V.S.A.)
§ 248, authorizing the construction of the "Addison)
Natural Gas Project" consisting of approximately)
43 miles of new natural gas transmission pipeline)
in Chittenden and Addison Counties,)
approximately 5 miles of new distribution)
mainlines in Addison County, together with three)
new gate stations in Williston, New Haven, and)
Middlebury, Vermont)

Order entered: 11/13/2015

**ORDER RE: REQUEST FOR A THIRD NON-SUBSTANTIAL
CHANGE DETERMINATION**

I. INTRODUCTION

In this Order, the Vermont Public Service Board ("Board") partially grants the requests filed on August 25, 2015, and on October 15, 2015, by Vermont Gas Systems, Inc. ("VGS" or the "Company") for a determination that two proposed changes to the natural gas transmission pipeline (the "Project") approved for construction in this Docket do not constitute a substantial change to the Project.

II. BACKGROUND

On December 23, 2013, the Board issued an Order granting a Certificate of Public Good ("CPG") to VGS authorizing the construction and operation of the Project.

On August 25, 2015, VGS filed a request that the Board find that eighteen proposed modifications to the Project do not constitute a substantial change to the Project (the "VGS Request").¹ This was VGS's third request for a non-substantial change determination in this Docket. The VGS Request included a non-substantial change summary memorandum with supporting attachments documenting the proposed changes.

On October 13, 2015, VGS requested that the Board consider two of the changes in the VGS Request, those associated with the Rocky Ridge Golf Course in St. George, Vermont (the "Rocky Ridge Changes"), on a stand-alone basis.

On October 14, 2015, the Board issued an Order stating that parties could comment on the VGS Request by October 30, 2015.

On October 30, 2015, the Vermont Department of Public Service ("DPS" or the "Department") advised that it agreed that the proposed changes in the VGS Request were non-substantial, and that the Department supported the VGS Request. The Department also reiterated its position that "a post-construction aesthetics review of the entire Project would be beneficial to address any additional needs regarding impacts or necessary mitigation."²

On November 3, 2015, VGS filed a proposed order regarding the Rocky Ridge Changes. VGS represented that the DPS supported the proposed order.

No other parties filed comments on the Rocky Ridge Changes.

As noted above, the VGS Request includes a total of eighteen modifications to the Project. As requested by the Company, we are evaluating the two Rocky Ridge Changes in this Order. The remaining proposed changes in the VGS Request will be considered in a subsequent order.³

1. VGS has previously submitted, and the Board has approved, two non-substantial change filings related to the first eleven miles of the Project. *See Order Re: Request for a Second Non-Substantial Change Determination*, Docket No. 7970, Order of 8/7/15 at 4; *Order Re: Request for Non-Substantial Change Determination*, Docket No. 7970, Order of 6/12/15 at 5.

2. Letter from Louise Porter, Esq., to Susan M. Hudson, Clerk of the Board, dated October 30, 2015.

3. The Board notes that Louise Selina Peyser filed a motion to intervene and provided comments via e-mail on October 31, 2015. Ms. Peyser's filing addresses changes not associated with the Rocky Ridge Golf Course and will be addressed in a subsequent order.

III. NON-SUBSTANTIAL CHANGE DETERMINATION

Board Rule 5.408 states:

An amendment to a certificate of public good for construction of generation or transmission facilities, issued under 30 V.S.A. § 248, shall be required for a substantial change in the approved proposal. For the purpose of this subsection, a substantial change is one that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the state under Section 248(a).

Additionally, the Project's CPG requires that:

Construction, operation and maintenance of the proposed Project shall be in accordance with the plans and evidence as submitted in this proceeding. Any material deviation from these plans or a substantial change to the Project must be approved by the Board.⁴

VGS has requested approval of the Rocky Ridge Changes, which the Company has designated PH1-19 and A-08. VGS is proposing these changes in response to the landowner's requests to minimize impacts to certain golf course improvements and avoid interruptions to business operations. Change PH1-19 involves relocating the pipeline along VT Route 116 next to the existing Rocky Ridge Golf Course, while change A-08 proposes adjusting the pipeline alignment to avoid infrastructure on the course. VGS represents that construction associated with the Rocky Ridge Changes must occur between November 1, 2015, and February 28, 2016, under the agreement with the landowner to avoid business disruption at the golf course and that failure to meet this timeframe will jeopardize the Company's ability to meet the Project's planned 2016 in-service date.

The Company has represented, through the opinions of three experts and its Project manager, that the Rocky Ridge Changes will not have a significant impact under the applicable Section 248 criteria. VGS has also advised that the cost estimate for the Project of approximately \$154 million does not need to be modified as a result of the proposed changes.⁵

4. *Petition of Vermont Gas Systems, Inc.*, Docket 7970, Certificate of Public Good, 12/23/13.

5. VGS Request Attachment 1.

Specifically, VGS has represented through a Natural Resource Assessment Memorandum that the Rocky Ridge Changes will not have a significant impact on any of the Section 248 natural resource criteria.⁶ All locations where these Project changes are proposed are within areas where full field investigations for natural resources have been completed and reviewed by Agency of Natural Resources ("ANR") personnel.⁷ VGS represents that change A-08 does not require any collateral permit amendments, and change PH1-19 requires amending only the Individual Construction Stormwater Discharge Permit #6949-INDC ("INDC"), issued by the Vermont Department of Environmental Conservation ("DEC").⁸ VGS has filed its INDC amendment request with DEC and is awaiting issuance.⁹ The Natural Resource Assessment Memorandum concluded that "while resulting in minor changes to impacts," the proposed changes do not alter VGS's expert consultant's prior conclusions that the Project conforms with the natural resource criteria considered within the Section 248 review.¹⁰ ANR did not comment on the Rocky Ridge Changes.

Additionally, based on its aesthetics consultant's conclusions in an Aesthetic Review Memorandum, the Company represents that the Rocky Ridge Changes will not significantly affect the Section 248 aesthetics criterion.¹¹ The memorandum opines that the Project revisions "will not materially change aesthetic impacts created as a result of the Project."¹² It further concludes that the changes "do not change [the] previous conclusion that the Project will not result in an undue adverse impact."¹³ This conclusion was confirmed by the aesthetics consultant for the DPS, who concluded that the changes were minor and would not result in a substantial change in visual quality or aesthetics.¹⁴

Finally, VGS represents that the proposed modifications do not have the potential for

6. VGS Request Attachment 2.

7. *Id.* at 1.

8. VGS Request Attachment 2B.

9. VGS Request Attachment 2 at 2.

10. *Id.* at 1, 5.

11. VGS Request Attachment 3.

12. *Id.* at 1.

13. *Id.*

14. Letter from Louise C. Porter, Esq., to Susan M. Hudson, Clerk of the Board, dated October 30, 2015.

significant impact on archaeological sites or historic properties, based on the Company's Archeological and Historical Resources Memorandum.¹⁵ This memorandum concludes that with "regard to historic properties, the proposed non-substantial changes will have no effect."¹⁶ With respect to archeological sites, the Rocky Ridge Changes are not in the vicinity of significant sites previously identified in the course of Phase I/II studies for the Project. As a result, the proposed changes do not require any new or additional archaeological investigation beyond what has already been considered.¹⁷

Therefore, based on the Company's representations in its memoranda, the support of the DPS, and the lack of other comments regarding the Rocky Ridge Changes, we find that VGS's proposed changes to the Rocky Ridge portion of the Project do not have the potential to create significant impacts under the Section 248 criteria. Accordingly, we will not require that VGS file for an amendment to its CPG to seek approval for the Rocky Ridge Changes. We condition this conclusion on the Company obtaining any required permit amendments prior to construction within the areas of the Project to be affected by the changes.

Furthermore, because the Project's CPG requires that construction of the Project be done in accordance with the plans and evidence submitted, we hereby admit into the record in this Docket the revised plans submitted in support of the VGS Request that pertain to the Rocky Ridge Changes.

SO ORDERED.

15. VGS Request Attachment 4.

16. *Id.* at 1.

17. *Id.*

Dated at Montpelier, Vermont, this 13th day of November, 2015.

<u>s/ James Volz</u>)	
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<u>s/ Margaret Cheney</u>)	PUBLIC SERVICE
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<u>s/ Sarah Hofmann</u>)	OF VERMONT

OFFICE OF THE CLERK

FILED: November 13, 2015

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@vermont.gov)

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