

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7970

Amended 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: 4/12/2013

**ORDER RE: MOTIONS TO INTERVENE**

Thirty-five persons or entities have filed motions to intervene in this proceeding before the Vermont Public Service Board ("Board"), which concerns an amended petition filed by Vermont Gas Systems, Inc. ("VGS") for a certificate of public good ("CPG") pursuant to 30 V.S.A. § 248 in connection with the proposed Addison Natural Gas Project (the "Project"). The procedural schedule fixed March 29, 2013, as the deadline for submitting intervention motions. VGS filed a timely pleading on April 5, 2013, in which it assented to 32 of the motions, objecting in whole or in part to three others. The Department of Public Service ("DPS" or "Department")<sup>1</sup> also filed a response to the pending intervention motions on April 5, 2013,

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1. Although we have long used the designations "DPS" or "Department" in our orders to refer to the Department of Public Service, we note that the DPS has recently adopted the practice of referring to itself as the "PSD" so as to avoid confusion with the Department of Public Safety. We are opting not to follow suit, believing that making such a change would be confusing to those who must research our decisions, would be likely to cause difficulties for court reporters transcribing our hearings given the similarity of "PSD" to "PSB" (the latter frequently employed in reference to the Board itself), and would accomplish little given the relative infrequency of references in our proceedings to the Department of Public Safety.

raising certain concerns as to three intervention requests but not opposing any outright. One of the prospective intervenors, the Vermont Fuel Dealers Association ("VFDA"), submitted a reply pleading on April 8, 2013.

No other objections or comments were filed. In this Order, we grant all but two of the motions outright, grant one in part and deny it in part, deny one, and impose certain conditions on the interventions as granted.

### **I. THE STANDARD**

PSB Rule 2.209 governs intervention in proceedings before the Board. Rule 2.209(A) provides that upon timely application a person shall be entitled to intervene in a proceeding in three circumstances:

- (1) when a statute confers an unconditional right to intervene;
- (2) when a statute confers a conditional right to intervene and the condition or conditions are satisfied; or
- (3) when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest and where the applicant's interest is not adequately represented by existing parties.

In addition, Rule 2.209(B) reserves to the Board 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 the discretionary authority reserved in Rule 2.209, the Board 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.

All of the pending intervention requests are timely inasmuch as they were filed on or before the March 29, 2013, deadline set forth in our Scheduling Order of February 21, 2013.

Rule 2.209(C) further provides that the Board may impose certain restrictions on an intervenor in participating in the proceeding. Specifically, we may

restrict such party's participation to only those issues in which the party has demonstrated an interest, may require such party to join with other parties with respect to appearance by counsel, presentation of evidence or other matters, or may otherwise limit such party's participation, all as the interests of justice and economy of adjudication require.

## **II. LOCAL AND REGIONAL GOVERNMENTAL ENTITIES**

### **Williston, Hinesburg, Monkton, New Haven, Middlebury, Vergennes, Addison County Regional Planning Commission**

Six municipalities that would host parts of the Project – the Towns of Williston, Hinesburg, Monkton, New Haven and Middlebury, as well as the City of Vergennes – seek intervenor status. The Addison County Regional Planning Commission has likewise sought intervenor status. In the absence of any objection, we grant these seven entities permissive intervenor status under Rule 2.209(B). Consistent with Rule 2.209(C), their participation is restricted to only those issues in which they have demonstrated an interest.

### **Bristol and Rutland**

Two other municipalities – the Town of Bristol and the City of Rutland – seek party status even though the proposed route of the Project does not reach their borders. Their pleadings assert a substantial interest within the meaning of Rule 2.209(B) based on the desirability of VGS providing service to customers in those municipalities.<sup>2</sup> Although service to Bristol and Rutland is not part of the pending petition, VGS has future plans to serve these communities and development of the pipeline is a condition precedent to realizing these plans. In these circumstances, and in the absence of any objection, we find that the economic development potential described by these two municipalities is a substantial interest that may be affected by the outcome of the proceeding. Therefore, they are granted permissive intervention

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2. The intervention motion submitted by the Town of Bristol states that, if approved, the Project "would provide access to natural gas to a significant number of residential and commercial customers in the village portion of the community."

under Rule 2.209(B). Consistent with Rule 2.209(C), their participation is restricted to only those issues in which they have demonstrated an interest.

#### Chittenden Solid Waste District

Additionally, the Chittenden Solid Waste District ("CSWD") seeks intervenor status on the ground that it owns property along Redmond Road in Williston that it uses or will use to conduct its various operations, including a landfill it is now developing. According to CSWD, the proposed pipeline will cross a portion of CSWD's Redmond Road properties, which are in close proximity to the valve VGS proposes to install in Williston. CSWD wishes to protect its ability to develop and operate its facilities. This is a substantial interest that may be affected by the outcome of the proceeding. In the absence of any objection, we grant the motion of CSWD for permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), CSWD's participation is restricted to only those issues in which it has demonstrated an interest.

#### Monkton Central School

The Monkton Central School, acting through the local school board, seeks intervenor status based on the proposed pipeline's proximity to the school and the resulting potential for impacts on school activities. This is a substantial interest that may be affected by the outcome of the proceeding. In the absence of any objection, we grant the motion of the Monkton Central School for permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), the school's participation is restricted to only those issues in which it has demonstrated an interest.

### **III. STATE AGENCIES**

Four State agencies – the Agency of Agriculture, Food and Markets ("AAFM"), the Division for Historic Preservation ("DHP") of the Agency of Commerce and Community Development, the Vermont Housing and Conservation Board ("VHCB") and the Agency of Transportation ("VTrans") – have moved to intervene.

#### Agency of Agriculture, Food and Markets

The AAFM seeks to intervene based on the fact that it is tasked under Titles 6 and 10 of the Vermont Statutes Annotated with identifying and protecting agricultural soils and Vermont's agricultural economy. AAFM also points out that it is the co-owner (with the Vermont Housing

and Conservation Board and the Vermont Land Trust) of farmland conservation easements on three farms within the path of the proposed pipeline. AAFM therefore seeks to participate with respect to the Board's consideration of economic impacts under Section 248(b)(4) and impacts on agricultural soils under Section 248(b)(5). In the absence of any objection, we find that AAFM has stated a substantial interest that may be affected by the outcome of the proceeding and grant AAFM permissive intervention under Rule 2.209(B).<sup>3</sup>

#### Division of Historic Preservation

The DHP, which is part of the Agency of Commerce and Community Development, seeks to intervene as the State entity responsible for reviewing matters concerning historic sites. DHP notes that 23 Native American archeological sites have been identified or evaluated along the proposed pipeline route, with additional work scheduled. In the absence of any objection, we find that DHP has stated a substantial interest that may be affected by the outcome of the proceeding. We grant DHP permissive intervention under Rule 2.209(B).

#### Vermont Housing and Conservation Board

The VHCB co-owns conservation easements (with AAFM and the Vermont Land Trust) on three farms (two in Hinesburg and one in New Haven) within the pipeline route. Accordingly, VHCB seeks to intervene to address the criteria under Section 248(b)(4) and (5). In the absence of any objection, we find that VHCB has stated a substantial interest that may be affected by the outcome of the proceeding. VHCB is granted permissive intervention under Rule 2.209(B).

#### Vermont Agency of Transportation

VTrans owns the right-of-way in the Chittenden County Circumferential Highway ("CIRC") corridor, which VGS proposes to use for the first 11 miles of the pipeline. In support of its intervention request, VTrans states that it wishes to assure that the Project does not interfere with the ability of the agency to use the property for future development as a transportation resource, and that VTrans is adequately compensated for use of the property by the pipeline. We find a substantial interest that may be affected by the outcome of the proceeding,

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3. Our assumption and expectation, as to AAFM and the other State agencies that have sought intervenor status, is that they will limit their participation in the proceeding to issues that fall within their statutory mandates. Accordingly, it is not necessary to consider whether to restrict the scope of their participation under PSB Rule 2.209(C) as we are doing with all other intervenors.

sufficient for permissive intervention under Rule 2.209(B), with respect to the agency's interest in the range of possible future uses of the CIRC Corridor. Accordingly, in the absence of any objection, we grant the motion of VTrans for permissive intervention under Rule 2.209(B).

#### **IV. POTENTIAL VGS CUSTOMERS**

Three potential industrial or commercial customers of VGS – Middlebury College, Agri-Mark, Inc., and International Paper ("IP") – seek intervenor status and assert a substantial interest in the outcome of the proceeding based on the economic and practical desirability of obtaining such service. Both Middlebury College and Agri-Mark, which operates a cheese production facility in Middlebury, would be in a position to obtain natural gas service upon completion of the Project that is before us. In the case of IP, the interest may be more attenuated inasmuch as extending service to an IP facility, which is located in Ticonderoga, New York, is not within the scope of the Project for which VGS is presently seeking a CPG. However, according to the VGS petition, a contract with IP is already in place; revenue from that contract forms part of the economic justification for the Project that is actually before us. The rights and obligations of that contract are both germane to the proceeding and likely to be affected by the outcome here. In these circumstances, and in the absence of any objection, we find that all three of these potential customers of VGS have stated a substantial interest that may be affected by the outcome of the proceeding. Each is granted permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), their participation is restricted to only those issues in which they have demonstrated an interest.

#### **V. ENTITIES CONCERNED ABOUT ECONOMIC IMPACTS**

Four entities – the Addison County Economic Development Corporation, the Rutland Economic Development Corporation, the Rutland Region Chamber of Commerce, and International Business Machines, Inc. ("IBM"), all seek to intervene based on their interest in the economic impacts of the Project. The interest of IBM arises out of the fact that it is an interruptible customer of VGS that (1) is concerned about the reliability implications of expanding the utility's service territory, and (2) incurs operating costs to purchase natural gas from VGS. The other three entities refer in their motions to the economic desirability of bringing

natural gas service to Addison and Rutland counties. In the absence of any objection, we find that all four of these movants have stated a substantial interest that may be affected by the outcome of the proceeding. Each is granted permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), their participation is restricted to only those issues in which they have demonstrated an interest.

## **VI. LANDOWNERS**

### **VELCO**

Among the wide range of property owners seeking intervenor status in this proceeding are two affiliated and jointly appearing entities – Vermont Electric Power Company, Inc., and Vermont Transco LLC (collectively, "VELCO"). VELCO owns and operates the State's electric transmission system; much of the proposed pipeline would be built adjacent to or within VELCO's rights-of-way and facilities. VELCO states its interest in this proceeding is to assure that the proposed pipeline does not adversely affect VELCO's ability to operate, maintain and expand its system. In the absence of any objection, we find that this constitutes a substantial interest that may be affected by the outcome of the proceeding. VELCO is granted permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), VELCO's participation is restricted to only those issues in which it has demonstrated an interest.

### **Vermont Land Trust**

Another prospective intervenor asserting a distinctive interest is the Vermont Land Trust ("VLT"), which owns conservation easements on five farms (three in Hinesburg, two in New Haven) within the proposed pipeline route. Three of the easements are co-owned with AAFM and the VHCB. As with those parties, the question of impacts on the operation of the farms and on the agricultural economy generally are substantial interests that may be affected by the outcome of the proceeding. In the absence of any objection, the VLT is granted permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), VLT's participation is restricted to only those issues in which it has demonstrated an interest.

Individual Landowners

Eight owners of property along or adjacent to the proposed pipeline route – i.e., individual persons or families – have invoked their status as landowners in support of motions to intervene. They are:

Robert and Shirley Johnson, Williston

Aldo and Mary Speroni, Williston

Matthew Taylor Baldwin, Hinesburg

David Carse and Elizabeth Hazen, Hinesburg

Nathan and Jane Palmer, Monkton

David and Claudia Ambrose, Ferrisburgh

Peter and Margaret Carothers, New Haven

Herrick Hulburt Sr., Michael Hulburt, David Hulburt, Herrick Hulburt Jr., and

Joshua Hulburt, New Haven

In the absence of any objection, we find that these landowners have set forth a substantial interest that may be affected by the outcome of the proceeding that is sufficient for permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), their participation is restricted to only those issues in which they have demonstrated an interest.

We note that some of the landowners have expressed concerns in their motions about the adequacy of the compensation they might receive in the event the Petitioner is granted a CPG in this Docket and condemnation proceedings ensue. A related concern stated in some of the landowners' intervention motions is the effect on individual property values if the Addison Natural Gas Pipeline is built. We emphasize that this Docket is not a condemnation proceeding and, thus, questions about the necessity to condemn a particular property (as distinct from the question of the necessity for the Project overall) or the valuation of any specific property are not within the scope of this Section 248 review. Thus, this proceeding will not address the impact of the proposed Project on individual property values.<sup>4</sup> However, one factor relevant to determining whether the proposed Project will provide an economic benefit to the State is the

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4. See *Vermont Electric Power Co. v. Bandel*, 135 Vt. 141, 145 (1977) (noting that Section 248 proceedings "relate only to the issues of public good, not to the interests of private landowners who are or may be involved").



overall impact of the proposed Project on property values in general.<sup>5</sup> Thus, intervening landowners may address aggregate effects on land value to the extent these bear on the overall economic benefit analysis under Section 248(b)(4). Likewise, to the extent that individual landowners have raised issues related to specific construction impacts on their properties, these impacts implicate the Section 248(b)(5) criteria<sup>6</sup> and are therefore within the scope of the permissive interventions we are granting here.

Finally, we note that in his motion to intervene, Mr. Nathan Palmer of Monkton seeks to represent not just himself and his spouse, but also neighboring farm owners Raymond and Beverly Latreille. Although, under PSB Rule 2.201(B), certain entities (partnerships, corporations, cooperatives and associations) may be represented by one of their officers or employees, the rule does not permit individuals to be represented in Board proceedings by a non-attorney. This limitation, which is consistent with the Vermont Rules of Civil Procedure applicable in judicial proceedings, promotes the interest of justice by assuring parties and the Board that persons who appear in Board proceedings are competent and authorized to bind those they represent. Accordingly, to the extent Mr. Palmer has sought to move on behalf of Mr. and Ms. Latreille for intervenor status, that part of Mr. Palmer's intervention motion is denied. However, Mr. and Ms. Latreille may themselves file an intervention motion if they wish.

## **VII. INTEREST GROUPS**

### **Conservation Law Foundation**

In its motion for intervention, the Conservation Law Foundation ("CLF") describes itself as having among its members "persons affected by the production and sale of natural gas in Vermont" who have a substantial interest in

promotion of clean and cost effective power supply, ensuring energy resources reduce pollution and harmful environmental impacts including reducing greenhouse gas emissions that cause climate change, encouraging the

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5. *Green Mountain Power Corp.*, Docket 7628, Order of 9/3/10, at 3 n.3.

6. 30 V.S.A. § 248(b)(5) requires the Board to consider effects on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration to the criteria specified in 10 V.S.A. § 1424a(d) and, 10 V.S.A. § 6086(a)(1) through (8) and (9)(k), and greenhouse gas impacts.

implementation of cost-saving energy efficiency and conservation, and protecting Vermont's air, water and other natural resources and public investments.

CLF also cites the economic interests of CLF's Vermont members as ratepayers. In the absence of any objection, we find that CLF has stated a substantial interest that warrants permissive intervention under Rule 2.209(B). Consistent with Rule 2.209(C), CLF's participation is restricted to only those issues in which it has demonstrated an interest.

#### Vermont Intergenerational Stewards

In its request for intervenor status, Vermont Intergenerational Stewards ("VIS") represents that it is a "private, ad-hoc membership organization representing the interests and rights of youth and future generations in Vermont, with specific regard to issues involving energy, climate change, natural resource use, and planning." VIS states that among its members are persons who live along the proposed Project route and whose land and families could be directly impacted by the Project. The substantial interests that VIS invokes are the effect of climate change, as caused by the extraction and use of natural gas and other fossil fuels, on youth and future generations.

VGS objects to intervenor status for VIS. According to VGS, the interests asserted by VIS are indistinguishable from those of the DPS and the ANR, both of which have entered appearances and are participating as statutory parties. Likewise, although the DPS does not object to the VIS motion, the Department takes the position that the Board should require additional information of VIS before giving the organization party status. DPS cites to our decision in *Petition of Georgia Mountain Community Wind, LLC*, Docket 7508, Order of 7/2/09, in which we held in abeyance a similar intervention motion pending receipt of additional information, including the organization's bylaws or other documentation showing the group's purpose, the approximate number of members, and whether any of the members are separately admitted as parties in this proceeding.<sup>7</sup> The DPS requests that we take the same action here.

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7. See also *Petition of Deerfield Wind, LLC* (Docket 7250), Order of 11/6/07, at 6 (concluding that, without such details, the Board cannot assess the substantial interest in the outcome of a Section 248 proceeding that might apply to a citizens' group formed to address issues related to a particular project) and *Joint Petition of Green Mountain Power Co. et alia* (Docket 7628), Order of 9/3/10, at 8-12 (granting intervention request of nonprofit organization formed to address concerns about specific Section 248 project).

The pleading submitted by VIS does not demonstrate entitlement to either intervention as of right under PSB Rule 2.209(A) or permissive intervention under PSB Rule 2.209(B). VIS has cited no statute that confers upon the organization an unconditional right to intervene, nor has VIS set forth any statutorily conditional right to intervene that has been satisfied. With regard to the question of substantial interests that may be affected by the outcome of the proceeding, it is impossible for us to evaluate the VIS request without specific information about who comprises its members, what specific interests those members have as individuals in this proceeding, and how VIS is organized (and thus the extent to which a designated representative for VIS in this proceeding has authority to advance the interests of its members).

Moreover, under PSB Rule 2.209(B), an important factor we apply in exercising our discretion to grant permissive intervention is "whether such status will unduly delay the proceeding or prejudice the interests of existing parties or of the public." Along similar lines, PSB Rule 2.201(B) reserves to the Board the authority to withhold permission for an association such as VIS to be represented by a non-attorney if there is "a substantial possibility that the participation of a pro se representative will unnecessarily prolong such proceeding or will result in inadequate exposition of factual or legal matters." The VIS petition, submitted by two persons who are not attorneys, does not provide sufficient information for us to determine the extent to which they are authorized to represent the VIS membership or the extent to which any such representation would be consistent with PSB Rules 2.209(B) and 2.201(B).

Accordingly, we deny the VIS motion for intervention but without prejudice to the organization's right to renew its motion supported by additional information. Specifically, if VIS chooses to submit a new intervention motion, it should include a copy of the organization's bylaws or other organizing documents, a list of the organization's members and the specific interests those members have in the outcome of the proceeding, and, unless VIS will be represented by counsel in this case, an identification of who will be duly authorized to represent the interests and to bind the members of VIS.

#### Vermont Fuel Dealers Association

In support of its request for intervention as of right under Rule 2.209(A) or, in the alternative, permissive intervention under Rule 2.209(B), the VFDA states that it represents

approximately 125 retail oil heat and propane companies in Vermont, of which approximately 25 are in Rutland and Addison Counties. With regard to the specific interest that may be affected by the outcome of the proceeding, VFDA contends that VGS is "taking direct aim" at the customer base of VFDA members in seeking to build the Addison Natural Gas Pipeline and serve customers in Addison County.

VGS objects to VFDA's intervention because VFDA has not stated a substantial interest within the meaning of Rule 2.209. According to VGS, competitive interests are an insufficient basis for intervention under the rule because 30 V.S.A. § 248 is a statute that protects the public good rather than the individual economic interests of persons or entities. The DPS likewise expresses concerns about the proposed VFDA intervention, but does not recommend outright denial of the VFDA motion. Rather, the DPS proposes that we use our discretion to admit VFDA as a party because the association is in a position to assist the Board in assessing the claims of VGS relative to the environmental benefits of replacing the consumption of heating oil with the consumption of natural gas. The DPS concedes that competitive interests, with nothing more, would be an inappropriate basis for intervention, but its proposed solution is to limit the scope of VFDA's intervention to its stated intention of addressing "claims about the emissions, prices, supply and efficiencies [of the proposed Project] compared to oil."<sup>8</sup>

The individual competitive impacts upon any one person or business are not within the scope of the Section 248 criteria and otherwise form no part of the issues that inform our general determination about the greater good. However, we are persuaded that VFDA may be in a position to contribute insights over the course of the proceeding that will assist us in developing a full record on the question of the environmental and practical implications of relying more on natural gas and less on fuel oil. Accordingly, we grant VFDA's request for permissive intervention under Rule 2.209(B) and condition its participation as proposed by the DPS.

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8. Letter of Timothy M. Duggan, Esq., to Susan M. Hudson, Clerk of the Board, April 5, 2013, at 2, quoting VFDA Motion to Intervene at 3.

### VIII. ADDITIONAL CONDITIONS

Having determined that 33 of the 35 pending intervention requests should be granted on a permissive basis under Rule 2.209(B), we now take up the question of the extent to which the interests of justice and economy of adjudication require us to place limits on the intervenors' participation in the case. This is a complex proceeding. As the result of our ruling today, many parties will be participating in discovery and the technical hearings. Accordingly, the resources of the Board and the parties must be allocated and managed with the recognition that these resources are not unlimited.

Therefore, we deem it necessary to group the parties according to their interests, much as we did in 2003 when we reviewed a proposed electric transmission line of comparable scope geographically.<sup>9</sup> As we noted in that case, "[t]he increased communication among parties with similar interests that have been grouped together can result in a more effective and efficient hearing, benefitting all parties and the tribunal."<sup>10</sup> We have thus grouped intervenors as follows:

#### Agricultural Interests

AAFM, VLT, VHCB

#### Non-Agricultural Institutional Property Owners

VELCO, VTrans, CSWD, Monkton Central School

#### Municipalities on Proposed Pipeline Route

Williston, Hinesburg, Monkton, New Haven

#### Municipalities Proposed to Receive Service

Middlebury, Vergennes

#### Indirectly Affected Municipalities

Bristol, Rutland

#### Potential VGS Customers

Middlebury College, Agri-Mark, IP

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9. See *Northwest Vermont Reliability Project*, Docket 6860, Order of 10/17/03 ("NRP Intervention Order").

10. *Id.* at 9-10.

Economic Development Interests

Addison County Economic Development Corporation, the Rutland Economic Development Corporation, Rutland Chamber of Commerce

Individual Landowners

Robert and Shirley Johnson; Aldo and Mary Speroni; Matthew Taylor Baldwin; David Carse and Elizabeth Hazen; Nathan and Jane Palmer; David and Claudia Ambrose; Peter and Margaret Carothers; and Herrick Hulburt Sr., Michael Hulburt, David Hulburt, Herrick Hulburt Jr., and Joshua Hulburt.

At this time, these designations are preliminary. A party included in one of the groupings described above may, on or before April 22, 2013, request redesignation by explaining why its inclusion in the group to which it has been assigned is inconsistent with the interests of justice and economy of adjudication. Some intervenors have not been assigned to a group. We did this deliberately because, in our judgment, the interests of these intervenors did not align with those of any others in a manner that made grouping them consistent with the standards of Rule 2.209(C).

As we did in Docket 6860 – the Northwest Vermont Reliability Project proceeding – we will require each group to coordinate its members' participation in discovery, in the presentation of evidence, in cross-examination, and in briefing. Commencing with the second round of discovery, which begins on May 17, 2013, each group shall file a consolidated set of information requests, eliminating any duplicative requests.<sup>11</sup> In responding to discovery requests, other parties need only provide a single set of responses to each group's designated representative.

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11. Pursuant to the Second Scheduling Order, entered on February 21, 2013, the first round of discovery requests is due to VGS April 19, 2013. For practical reasons, in light of the intervention deadlines and the timing of this Order, we do not impose any restrictions on the first round of discovery with the expectation that the first round will proceed in an orderly fashion consistent with the applicable Vermont Rules of Civil Procedure. *See* PSB Rule 2.214 (specifying which of these rules are applicable to discovery in Board proceedings).

Similarly, in serving discovery requests on a group of intervenors, other parties need serve a paper copy of the requests only on that group's designated representative.<sup>12</sup> No later than April 29, 2013, each intervenor group shall designate its representative for receipt of discovery responses and requests.

Each intervenor group shall file a single set of prefiled testimony and exhibits, but each member of a group may also file additional testimony and exhibits on relevant issues of specific concern to that member that are not adequately addressed in the group's consolidated filing.

Examination of witnesses at the technical hearing shall comport with the requirement of Rule 43(g) of the Vermont Rules of Civil Procedure, which provides that a witness "shall not be examined by more than one attorney on a side." Accordingly, each intervenor group must designate a lead counsel or representative for cross-examination purposes. As warranted, individual group members may be allowed to conduct additional cross-examination to address issues of specific concern to that member that are not addressed in the cross-examination by the group's lead counsel or representative or in any other party's cross-examination.

After the technical hearing, each intervenor group will be limited to filing a single consolidated brief and reply brief, with each member of a group allowed to file a supplemental brief on relevant issues of specific concern to that member that are not adequately addressed in the group's consolidated brief or reply brief.

#### **IX. GENERAL RIGHTS AND OBLIGATIONS OF INTERVENORS**

An intervenor granted party status gains certain rights to participate in the docket, including the right to conduct discovery, present evidence, cross-examine other parties' witnesses, and file briefs. We observe that with these rights come corresponding responsibilities. All parties, including intervenors, must comply with the Board's rules and orders, including the

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12. We note, however, that nearly all persons and entities seeking intervention in this proceeding, whether individually or in concert with others, have email addresses. The Clerk of the Board maintains an electronic service list in this Docket. Any person who is a party to the proceeding, the designated representative of a party to the proceeding, or a member of such a party, may ask the Clerk to have her or his email address added to this list. We expect parties to use this list to provide electronic service of pleadings and discovery papers. Any party on the electronic service list may waive the right to receive paper copies by so informing the Clerk.

schedule that has been established for this proceeding,<sup>13</sup> the obligation to respond to the information requests of other parties, and the obligation to provide copies of each filing to all parties.<sup>14</sup> Furthermore, under our rules "anyone appearing as a pro se representative shall be under all the obligations of an attorney admitted to practice in this state with respect to the matter in which such person appears."<sup>15</sup>

Adherence to the Board's rules is a necessary requirement for participation in Board proceedings. As a matter of fairness to all parties, only those who are prepared to meet these obligations may participate in this docket. Accordingly, all parties are expected to familiarize themselves with these rules and to comply with them in full.

SO ORDERED.

Dated at Montpelier, Vermont, this 12th day of April 2013.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: April 12, 2013

ATTEST: s/Judith C. Whitney  
Deputy 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@state.vt.us)*

13. The schedule is set forth in the Board's Order of 2/21/13, which is available on the Board's web site at <http://psb.vermont.gov/sites/psb/files/orders/2013/2013-02/7970SchedORD2nd.pdf>, and from the Clerk of the Board. The Board's rules are also available at our web site, <http://psb.vermont.gov/statutesrulesandguidelines/currentrules>, and from the Clerk.

14. As already noted, however, with respect to discovery requests made of, or responses provided to, grouped intervenors, paper copies need be served only on the groups' designated representatives.

15. PSB Rule 2.201(B) (noting that a non-attorney representative is not subject to the requirement in PSB Rule 2.201(D) to obtain leave of the Board prior to withdrawing an appearance).