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February 23, 2017

Judith Whitney, Clerk
Vermont Public Service Board
112 State Street, 4th Floor
Montpelier, VT 05620-2701

Re: Docket 8816: Petitioner Swanton Wind's Response to Motions to Intervene

Dear Ms. Whitney:

Please find enclosed Petitioner's Response to the motions to intervene submitted by Green Mountain Power and the Vermont Agency of Transportation in the above-captioned matter. These are the only two pending motions to intervene that appear in ePSB and that ePSB notified us were filed with the Public Service Board by the February 16, 2017 intervention deadline.

The documents that accompany this letter have been electronically filed using ePSB.

Please don't hesitate to let me know should you have any questions.

Respectfully submitted,

Alison Milbury Stone, Esq.

Enclosure
Cc: ePSB

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8816

Petition of Swanton Wind LLC for a certificate of)
public good, pursuant to 30 V.S.A. § 248, for the)
construction of an up to 20 MW wind-powered)
electric generation plant to be located in Swanton,)
Vermont)

SWANTON WIND LLC
RESPONSE TO MOTIONS TO INTERVENE

NOW COMES Swanton Wind LLC (“Swanton Wind”), Petitioner in the above-captioned matter, by and through the undersigned counsel, to respond to the motions to intervene filed on February 15, 2017 by the Vermont Agency of Transportation (VTRANS) and Green Mountain Power (GMP), respectively. Swanton Wind’s response to each motion is set forth in its Memorandum on Intervention, below.

MEMORANDUM ON INTERVENTION

Intervention in Public Service Board proceedings is available if a party demonstrates that it meets one of the applicable standards set forth in Board Rule 2.209. Under 2.209(A), a party is entitled to intervene “as of right” if the party establishes one or more of the following: (1) a statute confers on the party an unconditional right to intervene; (2) a statute confers on the party a conditional right to intervene and the condition(s) are satisfied; or (3) the party has a substantial interest that may be adversely affected by the outcome of the proceeding, the proceeding provides the exclusive means by which the party can protect its interest, and the party’s interest is

not adequately represented by another existing party(ies). Alternatively, permissive intervention under Rule 2.209(B) is available to a party that demonstrates that it has a substantial interest that may be affected by the outcome of the proceeding. When making its determination on permissive intervention, the Board considers whether the party's interest in the proceeding will be adequately protected by other parties; whether there are other means by which the party may protect its interest; and whether the party's intervention will cause undue delay or prejudice the interests of the public or other parties. Moreover, Rule 2.209(C) provides that the Board may impose certain restrictions on an intervenor participating in the proceeding. Specifically, the Board 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.

Vermont Agency of Transportation

VTrans filed a timely motion to intervene to represent its interests in the Project's potential to impact aeronautical interests generally, and in particular the public investment in Franklin County State Airport. Specifically, as the state entity charged with protecting aeronautical interests and the airport's "sponsor," VTrans seeks to intervene under 30 V.S.A. § 248(b)(5) with respect to 10 V.S.A. § 6086(a)(5)(A) ("will not

cause unreasonable congestion or unsafe conditions with respect to use of the . . . airports and airways”) and 9(K)(development affecting public investments). While Swanton Wind does not concede that intervention of right is appropriate, Swanton Wind does not object to VTrans’s permissive intervention, provided that it is limited to the issues and statutory criteria articulated in VTrans’s motion.

Green Mountain Power

GMP also filed a timely motion to intervene. GMP notes that the Project proposes to interconnect with a 34.5 kV line owned by GMP, that GMP would be obligated to purchase the power from the project under the Power Purchase Agreement that Swanton Wind has proposed under Board Rule 4.100, and that GMP and its investments in certain generation facilities in northern Vermont could be impacted by the development of additional resources in northern Vermont. Accordingly, GMP seeks to intervene with respect to whether the project is needed to meet present and future demand for service under 30 V.S.A. § 248(b)(2); whether the Project will adversely affect system stability and reliability under § 248(b)(3); and whether the Project will result in an economic benefit to the State and its residents under § 248(b)(4). Swanton Wind does not object to GMP’s permissive intervention on 30 V.S.A. § 248(b)(2) and § 248(b)(3), provided that such intervention is limited to the issues articulated in GMP’s motion. However, Swanton Wind does object to GMP’s intervention with respect to § 248(b)(4). GMP has not demonstrated that it has a substantial interest in whether the Project will

result in an economic benefit to “the State and its residents” that is distinct from that of the general public, and any interest that GMP may have under the economic benefit criterion will be adequately represented and protected by existing parties, most notably the Department of Public Service.

CONCLUSION

In accordance with the foregoing, Swanton Wind does not object to limited permissive intervention in this docket by VTrans with respect to the interests it has identified under Section 248(b)(5) and by GMP with respect to Section 248(b)(2)-(3), but does object to GMP’s participation regarding Section 248(b)(4).

Dated at Burlington, Vermont this 23rd day of February, 2017.

By: 

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