

**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 powered by up to 7 wind turbines located along)
Rocky Ridge in Swanton, Vermont)

FEB 15 '17 PM 3:39
VT PUBLIC SERVICE BOARD

**MOTION TO INTERVENE OF
JEANNE ROYER**

I, Jeanne Royer, *pro se* under Public Service Board Rule 2.209(A)(3), or alternatively under Board Rule 2.209(B), move to intervene in the above-referenced matter.

As an adjoining property owner, I have substantial, specific, and particularized interests that may be adversely affected by the outcome of this proceeding. This proceeding is the only means by which I can protect my interests, and these interests will not be adequately protected by other parties to this proceeding. My interests are unique to protecting the use and enjoyment of my property and the public areas nearby, and my perspective is sufficiently distinct from that of other parties.

My intervention will not unduly delay proceedings or prejudice the interests of existing parties or of the public.

Memorandum

I respectfully move to intervene in this matter based on my substantial, particularized interests in the following issues:

- (i) public health and safety, pursuant to 30 V.S.A. § 248(b)(5);
- (ii) water pollution, conservation, and burden on water supply,
10 V.S.A. §§ 6086(a)(1), (3), and (4);

- (iii) orderly development of the region, § 248(b)(1);
- (iv) economic benefit to the State and its residents, § 248(b)(4);
- (v) aesthetics, natural environment, § 248(b)(5), and § 6086(a)(8);
- (vi) necessary wildlife habitat, § 248(b)(5), and § 6086(a)(8); and
- (vii) need for demand, § 6086(b)(2).

The following argument supports my motion to intervene in this matter.

I. Legal Standard

Intervention in proceedings before the Board is governed by Board Rule 2.209. Under Rule 2.209(A), a person upon timely application shall be permitted as of right to intervene in any proceeding:

(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.

Under Rule 2.209(B), a person upon timely application may in the discretion of the Board be granted “permissive intervention” in any proceeding when the applicant “demonstrates a substantial interest that may be affected by the outcome of the proceeding.” The Board in exercising its discretion under this rule shall consider:

(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.

The Board has ruled that, “individual intervenors may bring a perspective sufficiently

distinct from those of existing parties to warrant their participation on specific issues.”¹

For example, the Board has found particularized interest based on the following:

1. habitat and natural resources involving deer and black bear;²
2. aesthetics based on proximity to the proposed project;³ and
3. stewardship, use, and enjoyment of public resources;⁴

In proceedings under 30 V.S.A. § 248, the Board does not consider interests in private property.⁵

II. Potential Impact of the Project on Jeanne Royer’s Interests

I move to intervene in this matter based on the following facts and applicable law:

1. Jeanne Royer’s Property

I reside at 2066 Sheldon Road, Swanton, Vermont (mailing address: St. Albans). My property adjoins the site of the proposed Project. The two most northern wind turbines would be towering above my property where my late husband and I built our home in 1979.

I am 92 years old and I have lived in this area my entire life. I am fortunate to enjoy good health. I am active in many civic causes and I volunteer for many non-profit organizations in our community. I drive my car to and from St. Albans almost every day and I regularly participate in the Rise Vermont exercise program at Taylor Park at 6:00 a.m. in the summer. I want to continue enjoying a life of peace and quiet in my home.

I have numerous concerns over the Project due to its proximity to my home, relating to both the construction and post-construction operations. The developers are not addressing the complex issues that have been raised thus far, and they have ignored the concerns of adjoining landowners regarding the adverse effects of operating

¹ *Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order of 10/12/12, at 12.

² *Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order of 10/12/12, at 2-4, 16-17; *Id.*, Order of 8/9/13, at 6.

³ *Petition of Barton Solar LLC*, Docket No. 8148, Order of 1/21/14, at 3-4.

⁴ *Joint Petition of Green Mountain Power Corporation, Vermont Electric Cooperative, Inc., and Vermont Electric Power Company, Inc.*, Docket No. 7628, Order of 9/3/10, at 12-13.

⁵ *Vt. Elec. Power Co. v. Bandel*, 135 Vt. 141, 145 (1977) (“Proceedings under 30 V.S.A. § 248 relate only to the issues of public good, not to the interests of private landowners who are or may be involved.”).

turbines too close to homes. My concerns include but are not limited to the following:

2. Public Health and Safety

The turbines likely would emit audible noise disturbance. I do not have air conditioning, and in the summer I often sleep with my windows open. I dread that the turbines would bring unwanted noise and thereby disturb my sleep. Sleep deprivation would have a significant impact on my health.

A safe and secure water system is paramount to me. A drilled well supplies water to my house. I am concerned that blasting and drilling associated with the Project may cause cracking or other damage to the well, or to the foundation or walls of my home. Likewise, construction or operation of the Project may affect the quality or volume of the water in my well, or may elevate radon gas.

Therefore, as the Project may interfere with my restorative sleep; or may damage the well, walls, or foundation of my home; or may elevate radon gas, the Project poses a risk to health and safety. As no other party would adequately represent these interests, I move to intervene on this issue. 30 V.S.A. § 248(b)(5) (public health and safety).

3. Water Quality

As stated in the previous section, construction and operation of the Project may affect my well, or the quality or volume of the water in the well.

Therefore, as a landowner concerned over the supply and purity of their water, I move to intervene on this issue. 10 V.S.A. § 6086(a)(1), (3), and (4).

4. Orderly Development; Economic Benefit to the State

The turbines standing on Rocky Ridge would be highly visible. In addition to the aesthetic downgrade of the mountain ridge, the proximity of the turbines would certainly result in the devaluation of my property.

I understand that my interest in private property may not be considered in this case, however the Project would not only affect the value of my home, but rather all the homes in the surrounding area thereby affecting the regional and statewide economy. The Project in disrupting this rural residential setting would interfere with the orderly development of the region.

As a long-time adjoining neighbor and resident of Vermont, I have a particular interest in the orderly development of the region, and in the statewide economy; and

a perspective that may be useful to the Board in determining the outcome of this proceeding. Accordingly, I should be allowed to intervene on these issues. § 248(b)(1), and (4), (orderly development, economic benefit to the state).

5. Aesthetics; Scenic Natural Beauty

I spend many hours in my backyard tending to my vegetable garden and spending time relaxing with my children, grandchildren, and great-grandchildren while enjoying the tranquil and natural beauty surrounding me.

However construction and operation of the Project would affect my enjoyment of the scenic views and the peaceful, natural setting on my property; and likewise the Project would affect surrounding public areas including Fairfield Pond, the Missisquoi Valley Rail Trail, and nearby roads.

As a longstanding resident of Vermont, I have a unique interest and perspective on this issue that would not necessarily be represented by other parties, and which may be useful to the Board in determining the potential impact of the Project on aesthetics. Therefore, I move to intervene on these issues. § 6086(a)(8) (aesthetics, natural areas, wildlife habitat); and § 248(b)(5) (aesthetics, natural areas, wildlife habitat).

6. Wildlife Habitat

I have read that wind turbines kill large numbers of bats and birds, especially along wooded ridgelines. Bats and birds are necessary in reducing the mosquito population. We have a large population of mosquitos in our area in the summer. Killing bats and birds unsettles the balance of nature and would increase the number of mosquitos.

Construction and operation of the Project may affect the wildlife on my property and in surrounding areas. As a local landowner and long-time resident, I have a unique interest and perspective that would not necessarily be represented by other parties, and which may be useful to the Board in this matter. Therefore I move to intervene on this issue. § 6086(a)(8) (natural areas, wildlife habitat); and § 248(b)(5) (natural areas, wildlife habitat).

7. Need For Demand

The developers have not sufficiently demonstrated the need for power generated by this Project. It is reported that Green Mountain Power, Burlington Electric, and Vermont Electric agree that the power generated from this Project is not needed to serve their customers. If it is later determined that wind power is needed, despite the fact that wind blows across Rocky Ridge it may yet be an unsuitable site for this

industry.

I acknowledge that normally state agencies, not individuals, intervene in this issue, however I believe that I have distinct experience and perspective that may be useful to the Board in determining the outcome of this case, therefore I move to intervene on this issue. § 6086(b)(2).

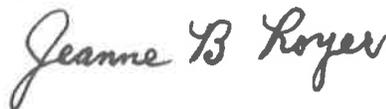
III. Conclusion

As a life-long resident of Vermont, I understand that we all, including the developers of this Project, have a responsibility to protect and preserve the world we live in. In this case, the developers have not provided convincing evidence of the long-term economic advantage to the consumers and Towns surrounding the Project. Instead, they have demonstrated that their primary objective is their own economic gain, and they have failed to fully consider the complex issues which will affect their neighbors, local citizens, the natural beauty of the State, the delicate balance of the eco-system, and the best interests of Vermont.

While this Project is purported to advance the public good, it also raises significant concerns over the public interest. Therefore, in order to protect myself, my family, and my neighbors throughout the State, I should be allowed upon the evidence presented herein to intervene in this proceeding.

Respectfully submitted this 16th day of February, 2017.

By:



Jeanne Royer
2066 Sheldon Road
Saint Albans, VT 05478-9704
(802) 309-8987
jeanneroyer25@gmail.com

**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 powered by up to 7 wind turbines located along)
Rocky Ridge in Swanton, Vermont)

FEB 15 '17 10:38 AM
VT PUBLIC SERVICE BOARD

CERTIFICATE OF SERVICE

We, Brian and Penny Dubie, et.al., certify that on February 16, 2017, copies of the foregoing *Notices of Appearance*, and *Motion to Intervenes of Brian and Penny Dubie, Jeanne Royer, Judith and Patrick Luneau, Karen and Leo McLaughlin, Sally and Bruce Collopy, Kaye and Frank B. Mehaffey, Jr., Terrance Smith, David A. Goodrich, Robert Perkins, Patricia Messier, Sarah & Ed Ferguson, Ian and Danielle Garrant, Curtis Swan and Sara Luneau-Swan, Dan and Nancy Dunne, Erynn & Tyrell Boudreau, Dennis Hendy and Diane Bell, Mary and Mark Bushey, Steve Woodward, Kenneth Fox, Michelle and Luc Deslandes, David Butterfield, Bradley Stott and Jennifer Belanger, Clark and Carol Palmer, Paula Pearsall, Greg Pierce and Paula Kane, Mark and Marianne Dubie, Marie and Gil Tremblay, Patricia Rainville and John Smith, Kevin and Dolores Nichols, Jessica Decker and Lance Desautels, Suzanne Seymour, Mary Hunter, Todd Poirier* in the above-referenced matter, were served via First-Class U.S. Mail on the interested persons designated in the following Service List.

Respectfully submitted this 16th day of February, 2017.

By:



Brian Dubie
Penny Dubie
770 McKenzie Road
Fairfield, VT 05455
(802) 734-1877
pennydubie@gmail.com

SERVICE LIST

Leslie Cadwell, Esq,
Alison Milbury Stone, Esq.
Legal Counselors and Advocates PLC
PO Box 827
Castleton, VT 05735

Green Mountain Power Corp.
163 Acorn Lane
Colchester, VT 05446

Aaron Kisicki, Esq.
Vermont Department of Public Service
112 State Street, Third Floor
Montpelier, VT 05620-2601

Edward Adrian, Esq.
Monaghan Safar Ducham, PLLC
156 Battery Street
Burlington, VT 05401

Cindy Ellen Hill, Esq.
144 Mead Lane
Middlebury, VT 05753

Melanie Kehne, Esq.
Vermont Agency of Agriculture
Office of the Attorney General
109 State Street
Montpelier, VT 05609-1001

William F. Ellis, Esq.
McNeil, Leddy & Sheahan, P.C.
271 South Union Street
Burlington, VT 05401

Joseph S. McLean, Esq.
David W. Rugh, Esq.
Stitzel, Page & Fletcher, P.C.
171 Battery Street, P.O. Box 1507
Burlington, VT 05402-1507

Leslie Welts, Esq.
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901

David Englander, Esq.
Vermont Department of Health
108 Cherry Street – Drawer 39
PO Box 70
Burlington, VT 05402

Dale E. Azaria, Esq.
Vermont Division for Historic Preservation
1 National Life Drive
Davis Building, 6th Floor
Montpelier, VT 05620-3901

John Dunleavy
Assistant Attorney General
Vermont Agency of Transportation
One National Life Drive
Montpelier, VT 05633