

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7628

Joint Petition of Green Mountain Power Corporation,)
Vermont Electric Cooperative, Inc., and Vermont)
Electric Power Company, Inc. for a certificate of public)
good, pursuant to 30 V.S.A. Section 248, to construct up)
to a 63 MW wind electric generation facility and)
associated facilities on Lowell Mountain in Lowell,)
Vermont, and the installation or upgrade of)
approximately 16.9 miles of transmission line and)
associated substations in Lowell, Westfield and Jay,)
Vermont)

Order entered: 8/11/2011

**ORDER RE COMPLIANCE WITH CONDITION 15(a) AND LOWELL MOUNTAINS
GROUP MOTION FOR DISCOVERY AND TECHNICAL HEARINGS**

INTRODUCTION

On May 31, 2011, the Public Service Board ("Board") issued an Order (the "Order") and Certificate of Public Good ("CPG") in this docket approving, subject to certain conditions, the construction and operation of the proposed wind electric generating facility. One of those conditions is Condition 15(a) which requires Green Mountain Power Corporation ("GMP") to comply with the conditions and requirements of a stipulation between GMP and the Agency of Natural Resources ("ANR") dated February 24, 2011, ("Natural Resource MOU")¹ as modified by the Order. Among other things, the Natural Resource MOU requires GMP to cause four land parcels to become subject to conservation easements ("Parcels 1, 2, 3 and 4") to mitigate the project's impacts to wildlife habitat. Pursuant to the Natural Resource MOU, GMP is required to have the conservation easements for Parcels 1, 2 and 3 in place prior to the commencement of

1. The Natural Resource MOU was admitted into evidence as exhibit GMP-ANR-1.

project construction, and the conservation easement for Parcel 4 in place prior to commencement of commercial operations.²

On July 21, 2011, GMP filed a letter with the Board regarding a number of issues related to Parcels 1, 2 and 3. In particular, GMP noted that the owner of the property where the project will be located, Mr. Wileman, had undertaken earthwork on a portion of his lands that are designated for conservation as Parcel 3, resulting in impacts to a Class II wetland and buffer zone. The property owner has also undertaken activity with respect to logging roads in Parcels 1 and 2. GMP also noted that one of its contractors, without authorization, had cut down approximately 10 mature trees within the area to be cleared for the project's access road. GMP stated that it is working with the landowner and ANR to ensure that any and all appropriate remediation and restoration activities are completed within the conservation easement parcels.³

GMP's letter resulted in a number of rounds of comments being filed by multiple parties, as well as a Motion for Discovery and Technical Hearings re: Impairment of Conservation Easements and Need for Additional Conservation ("LMG Motion") by Lowell Mountains Group, Inc. ("LMG"). The positions of the parties are summarized below.

In this Order, we establish a process for determining whether GMP has complied with Condition 15(a) of the CPG and deny the LMG Motion without prejudice to LMG renewing its motion at a future time.

POSITIONS OF THE PARTIES

Albany and Craftsbury

On July 25, and on August 2, 3 and 9, 2011, Albany and Craftsbury (the "Towns") filed comments on the issues raised by GMP's July 21, 2011, filing, as well as GMP's responses to filings made by the Towns and other parties. The Towns' comments filed July 25, 2011, focus on impacts to the Class II wetland located on Parcel 3, and assert that the High-Elevation Wetlands

2. Exh. GMP-ANR-1 at ¶¶ 2.1.2.f., 2.2.2.e., 2.3.2.d., and 3.1.2.b.

3. GMP letter of 7/21/11 at 1-2.

Mitigation Plan proposed by GMP was likely no longer sufficient due to these impacts.⁴ Their August 2, 2011, filing expands their concerns to impacts on black bear habitat resulting from the wetland impacts on Parcel 3 and the clearing associated with logging road construction and maintenance on Parcels 1 and 2. In their August 3, 2011, filing, the Towns assert that the clearing on Parcels 1 and 2 has created habitat fragmentation that has not been properly addressed by GMP or ANR. The Towns further assert that ANR and GMP should be required to file the results of a comprehensive inventory of the four mitigation parcels that GMP represents was undertaken at the request of ANR, as well as the content of a presentation from GMP's consultants to ANR in light of the inventory. The Towns assert that this information should be filed in the form of sworn testimony to be subject to discovery and cross-examination. The Towns again state that the remediation proposed by GMP and ANR is not sufficient to mitigate the clearing impacts to Parcels 1 and 2. Lastly, on August 9, 2011, the Towns filed a letter in which they again ask the Board to require GMP to provide the information that its consultant submitted to ANR, but in the form of sworn testimony along with maps and photos to corroborate the testimony, prior to GMP undertaking any remediation activities to address the impacts to Parcels 1, 2 and 3. In each of their filings the Towns assert that an evidentiary hearing must be held to determine the extent of the impacts to Parcels 1, 2 and 3, and whether the proposed remediation and supplemental mitigation is sufficient to offset the impacts of the project.

Lowell Mountains Group

On August 1, 2011, LMG filed the LMG Motion asking the Board to set a discovery schedule for the parties to determine the extent of the damage to Parcels 1, 2 and 3 caused by the earthwork and other activities described in GMP's July 21, 2011, letter, and upon completion of such discovery, convene a technical hearing to determine the continued viability of the mitigation parcels to appropriately mitigate the impacts of the project. LMG asserts that the impacts from the tree clearing, road building and earthwork within Parcels 1, 2 and 3 causes it "grave concern"

4. We addressed the arguments made by the Towns on this point in our Order approving the High-Elevation Wetlands Mitigation Plan dated 8/5/11.

over whether Parcels 1, 2 and 3 can serve their intended mitigation functions in light of the work undertaken by the property owner. On August 5, 2011, LMG filed a response to an opposition to the LMG Motion filed by GMP. In its response, LMG argues that it is not possible to determine the extent of the fill impacts to the Class II wetland on Parcel 3 without further investigation, and that the tree clearing that took place related to the logging road construction and maintenance, and survey work done by GMP's contractor, is more extensive than is described by GMP, resulting in the potential for additional impacts to wetlands on Parcel 3, as well as increased habitat fragmentation throughout the project area. LMG also asserts that tree-clearing activities took place in excess of 2,000 feet in elevation and thus occurred in high-elevation areas. LMG concludes that Parcels 1 and 3 are no longer capable of providing the extent of wetlands mitigation that was contemplated by the parties and the Board during the technical hearings. LMG submitted the affidavit of Justin Martin Lindholm in support of its allegations. Given the disagreements between Mr. Lindholm's affidavit, and those filed by Jeffrey Nelson on behalf of GMP, LMG asserts that there are disputes as to material facts and an evidentiary hearing is necessary to determine the extent of the impacts from the landowner's activities, and whether additional mitigation is needed. LMG also adopts the positions of the Towns.

Donald and Shirley Nelson

On July 29, 2011, Donald and Shirley Nelson filed comments in response to GMP's July 21, 2011, letter. The Nelsons' comments criticize the legal validity of an affidavit executed by the landowner, Mr. Wileman, that was included with GMP's July 21, 2011, letter and criticize GMP's letter, stating GMP can no longer be taken at its word due to its failure to properly supervise activities on the affected lands, and due to what they perceive as the misleading nature of the GMP letter. For example, the Nelsons assert that the approximation of the cutting of 10 mature trees by GMP's contractor is not correct, and that they understand the number is closer to 40. The Nelsons believe that the Board should reopen the proceedings and conduct a factual investigation into the violations including those related to timber cutting, the conservation easement parcels, improper road construction, placement of inadequate culverts and construction of an access road to the beaver pond on Parcel 3. The Nelsons recommend that GMP be required

to make full disclosure of all activities that have taken place on Parcels 1 and 2 with supporting documentation, and that an opportunity for discovery be provided, followed by technical hearings to determine the full extent of the impacts to Parcels 1, 2 and 3.

Conservation Law Foundation

On August 4, 2011, Conservation Law Foundation ("CLF") filed comments in response to the Towns' comments regarding impacts to Parcels 1, 2 and 3. CLF states that it shares the concerns expressed by other parties that the activities that have taken place on the parcels undermine the value of their mitigation for the project's environmental impacts. CLF supports the Towns' request to have access to any "findings, evaluations or investigations" by ANR and GMP. CLF asserts that access to such information would be helpful in assisting the parties in determining whether the actions taken to remediate the impacts were adequate, and to then bring any deficiencies to the attention of the Board. CLF "does not request or suggest that access to this information should delay commencement construction." Additionally, CLF recommends that the Board require GMP to establish a funding mechanism so that the holder of the conservation easements can retain an independent evaluator to perform annual monitoring of the easement parcels throughout the life of the project, and provide an annual report to the Board and parties on the condition of the easement parcels, so that any future damage will either be avoided, or identified and remediated.

Agency of Natural Resources

On July 29, 2011, ANR filed a letter outlining the steps that it has undertaken in response to the activities described in GMP's July 21, 2011, letter. ANR stated that it has commenced an investigation of the landowner to determine if his activities violated state wetlands regulations, the landowner's Use Value Appraisal Plan, and Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont. Additionally, at the request of ANR, GMP assigned its environmental consultant ("VHB") to conduct a survey of the four mitigation parcels required by the Natural Resource MOU to assess the extent of any and all new clearing or

other forest management practices on the parcels, including stream crossings or other infrastructure, to determine the extent of impacts to the parcels from the landowner's activities.

According to ANR, the survey conducted by VHB revealed the following:

1. Clearing in the vicinity of the beaver pond on Parcel 3 amounting to approximately 1/4 acre with some amount of fill apparently being placed in the beaver pond.
2. Construction of a new logging road beginning south of a log landing on Parcel 1, in a north to south direction along the western sides of Parcels 1 and 2. In addition to new clearing, the landowner installed culverts and installed and improved water bars and ditches.
3. In addition to the new logging road, the landowner cleared the edge of an existing road along the western edge of Parcel 1, running north of the log landing. Clearing extended beyond the ends of the culverts, creating canopy gaps.
4. The landowner has engaged in other activities including installing new water bars and ditches, and installing or replacing culverts. The survey indicates that most of the recent maintenance work is inadequate (e.g., undersized culverts and water crossing features).

As a result of the survey, ANR recommends the following and represents that GMP and the landowner have agreed to these measures:

1. Limitations to landowner activity on the four mitigation parcels.
 - The landowner will stay off the parcels for any purpose other than non-motorized recreational use until November 13, 2013.
 - The right of the landowner and the owner of a neighboring parcel to cross Parcel 3 under frozen ground conditions will be eliminated from the Parcel 3 easement language.⁵

5. It is not clear from ANR's filing if the neighboring landowner has an easement or some other form of irrevocable legal right to cross Parcel 3. When GMP makes the filings required by this Order, it must demonstrate that any such legal right has been properly relinquished by the adjoining landowner.

- Easement language for Parcels 1, 2 and 4 will be modified to eliminate the right of the landowner to build or improve new roads. The landowner will retain the right to repair and maintain any existing roads with the prior written consent of ANR.

2. Restoration and remediation.

- Restoration and remediation of Parcel 3 shall include but not be limited to removal of all material placed in the beaver pond and wetland buffer zone, planting of vegetation at ANR's direction sufficient to return the recently cleared edge of the beaver pond to its natural state, and monitoring of plantings for success and invasive species using the same methods, standards and time periods as those in the approved post-construction revegetation plan.
- The newly-constructed logging road shall be removed and the area restored. This will include removing all culverts and other drainage structures or water crossings, re-contouring the ground to its pre-disturbance grades with topsoil on the surface, and natural regeneration of vegetation. There may be spots where replanting of trees is necessary where grubbing or stumping occurred. In the future, the restored area may be used as a skid road.
- If there are other newly-constructed logging roads on any of the four mitigation parcels, they shall be removed and restored as described above.
- All existing roads that have been recently expanded in road surface width, drainage structure width or by "daylighting" or clearing of adjacent forest, will be restored to the minimum width necessary to serve as a functional logging road, generally no more than 16 feet in width. Daylighted or cleared areas will be allowed to naturally revegetate. If grubbing occurred in addition to tree cutting, then planting of native species may be necessary. The goal is to maintain a continuous forest canopy cover.
- All drainage structures and culverts associated with existing haul roads and skid roads shall be evaluated for proper construction and installation. Any that are determined to be inadequate will be repaired consistent with ANR standards.
- Any area where there has been recent soil disturbance resulting in restoration work will be subject to a five-year invasive species monitoring and control plan.

3. Additional mitigation

- In addition to the four conservation parcels required by the Natural Resource MOU, the landowner will convey approximately 170 additional acres as mitigation for natural resource impacts, which will be subject to the same terms

as those applying to Parcel 3 (the most restrictive). The supplemental acreage contains yellow birch red spruce forest, high-elevation headwaters, a wetland, and bear scarred beech. ANR states that it is not necessary for the supplemental parcel to be conveyed prior to commencement of construction.

With respect to high-elevation wetlands, ANR does not believe the wetland impacts to Parcel 3 impact any high-elevation wetlands. ANR further notes that 50 acres of the supplemental mitigation acreage on the eastern side of Parcel 4 contains high-elevation streams and a wetland.

Based on the representations of GMP regarding restoration, remediation, additional mitigation and new restrictions on landowner usage of the Parcels, ANR does not believe any additional hearings are required as a result of the recent activity.

On August 4, 2011, ANR filed a letter responding to issues raised by the Towns with respect to bear scarred beech, habitat fragmentation and the additional mitigation proposed by GMP in the form of the supplemental acreage. ANR asserts that the remediation work to be undertaken by GMP, as well as the conservation of the additional approximately 172 acres, adequately mitigates for the impacts to Parcels 1, 2 and 3 from the landowner's activities. With respect to the Towns' concerns regarding impacts to black bear habitat, ANR contends that the supplemental acreage consists of high-elevation forest, the conservation of which will offset any impacts to bear habitat on Parcels 1, 2 and 3. ANR describes the additional acreage as consisting of two parcels along the ridgeline that contain additional acreage of bear scarred beech habitat. One parcel lies west of Parcel 4 and consists of approximately 50 acres containing wetland acreage, bear scarred beech and the state significant natural community of yellow birch red spruce forest. ANR states that the other parcel contains approximately 122 acres of unfragmented high-elevation forests including yellow birch red spruce forests and other important natural resource features. The conservation easement that would apply to the supplemental acreage would prohibit the landowner from engaging in logging or other forest production operations, as well as the construction of new roads or skidder trails.

According to ANR's August 4, 2011, filing, GMP's restoration and remediation efforts will help restore Parcels 1, 2 and 3 and return the effected area to a closed forest canopy. This work, together with the supplemental acreage to be conserved, satisfies ANR that the impacts

from the landowner's activities have been adequately addressed, the mitigation remains sufficient, and no additional hearings are necessary. ANR states that it is not necessary for the conservation easements covering the supplemental mitigation acreage to be conveyed prior to commencement of construction. However, ANR believes that the restoration work outlined in its July 29, 2011, letter should take place as soon as possible and should precede commencement of project construction.

Department of Public Service

On August 1, 2011, the Department of Public Service ("DPS") filed a letter responding to GMP's letter of July 21, 2011, and the July 22, 2011, letter from the Towns. The DPS states that it reviewed ANR's letter of July 29, 2011, that it shares ANR's concerns regarding the landowner's actions and their resulting impacts to the mitigation parcels, and agrees with ANR's recommendations for proceeding in light of the recently reported activities.

Green Mountain Power

In addition to its initial letter of July 21, 2011, GMP filed comments on August 1 and 4, 2011, in response to filings made by the Towns and LMG. In its August 1, 2011, filing, GMP asserts that the Towns and LMG are incorrect that any additional discovery or technical hearings are necessary related to the activities undertaken by the landowner on Parcel 3. GMP asserts that there is no basis to review the adequacy of the conservation easements because, as we noted in our recent order on compliance filings, the easement documents do not require Board approval.⁶ Rather it is the management plans governing the use of the Parcels that require Board approval.⁷ Additionally, GMP relies on the affidavit of Jeffrey Nelson to demonstrate that the landowner's actions do not affect the Board's prior determinations with respect to the adequacy of the Parcel 3 easement. GMP further relies on Jeffrey Nelson's affidavit to assert that the High-Elevation

6. Docket 7628, Order of 7/27/11 at 20.

7. GMP's proposed Forest and Wildlife Habitat Management Plan was approved by Board Order dated 8/5/11.

Wetlands Plan was not impacted by the landowner's activities.⁸ Lastly, GMP points to the remediation activities to be paid for by the landowner, as well as the additional acreage to be conserved, all as described above in the summary of ANR's position, in support of its position that no further process is warranted with respect to the mitigation parcels. GMP asserts that the commencement of construction need not be delayed while the remediation and restoration activities are taking place. In its August 4, 2011, filing, GMP largely repeats the comments from its August 1, 2011, filing, with the added detail that remediation will include replanting that will result in restoration of forest canopies over all logging roads on the mitigation parcels and restoration of the Parcel 3 wetland and buffer zone. GMP states that replanting and monitoring will be done in consultation with ANR and to the same standards and using the same methods as are set forth in the approved Post-Construction Revegetation Plan. GMP asserts that the end result will be mitigation in excess of that which was previously found adequate by the Board.⁹

DISCUSSION

For the reasons explained below, we decline at this time to establish a discovery schedule or to set a date for a technical hearing related to the impacts of Mr. Wileman's activities on Parcels 1, 2 and 3. Accordingly, we also deny the LMG Motion at this time. However, that denial is without prejudice, and LMG may renew its motion at a more appropriate time as is discussed below.

As an initial matter, we set forth our disagreement with GMP regarding the Board's ability to review the adequacy of the mitigation that will result from the conservation of Parcels 1 through 4. GMP seems to believe that, because we determined that we need not review and approve the form of the easement deeds, that we are precluded from reviewing the adequacy of the parcels for achieving their intended purpose in the face of the landowner's recent actions.¹⁰ This is incorrect. As the Towns point out, the Board relied in part on the conservation easements

8. The High-Elevation Wetlands Plan is not under consideration in this Order as it was previously approved by Order dated 8/5/11. No party has raised any new issues with respect to that plan and whether the landowner's activities have impacted the adequacy of that plan that were not already addressed in that Order.

9. GMP again submitted an affidavit from Jeffrey Nelson in support of its position.

10. GMP Comments filed 8/1/11 at 1-2.

that are required by the Natural Resource MOU for its finding of no undue adverse impact to natural resources.¹¹ No party disputes that the condition of three of those four parcels has been altered as a result of the activities of the landowner, and the Board must ensure that those parcels are remediated to a condition as near as possible to that which was contemplated during the technical hearings, or failing that, that appropriate supplemental mitigation is in place to offset any impacts to the mitigation parcels that cannot be corrected in a timely fashion.¹²

Second, we address an issue that arose as the result of a letter filed on August 5, 2011, by GMP, and a response filed by the Towns on August 9, 2011. In a letter filed August 5, 2011, GMP indicated that it planned to begin the previously described remediation work on Parcels 1, 2 and 3 as soon as authorized by ANR. GMP represented that it expected to receive the necessary permits from ANR on either August 5 or 8, 2011, and that none of the remediation work would take place on the project site or constitute site preparation for project construction.¹³

On August 9, 2011, the Towns responded with a letter in which they requested that the Board require GMP to provide the information that its consultant submitted to ANR as the result of an inventory of impacts performed on the parcels, and to do so in the form of sworn testimony, along with maps and photos to corroborate the testimony, prior to GMP undertaking any remediation activities to address the impacts to Parcels 1, 2 and 3.

On August 10, 2011, ANR filed a letter explaining that it was not issuing permits to GMP for the remediation work on the mitigation parcels. Rather, it issued an order pursuant to 10 V.S.A. § 1272 ("1272 order") directing the landowner to restore and remediate "for certain activities on mitigation parcels 1-3 and a logging road, identified as the Northern Logging Road, which is located north of the mitigation parcels and outside the area of the wind project." ANR states that, with the issuance of the 1272 order, it has taken steps to address the impacts of the landowner's activities on the mitigation parcels. ANR further notes that the 1272 order is not an

11. Towns Comments filed 8/3/11 at 1.

12. For example, the tree clearing associated with the construction of the new logging road and maintenance of the existing logging road created gaps in the forest canopy. ANR's letter of July 29, 2011, indicates that, with some possible exceptions, these gaps will be eliminated through natural revegetation. Given the width of this clearing, averaging 99 feet with a maximum width of 172 feet (*see* ANR letter of 7/29/11 at 2), it is only logical to conclude that restoration of the forest canopy will take several years at a minimum.

13. GMP letter filed 8/5/11.

enforcement order, and that the agency is still investigating whether to bring an enforcement action that may result in the imposition of fines and penalties against the landowner. ANR states that its enforcement investigation should not affect the conditions imposed by the Board in the CPG. ANR included a compact disc with a copy of the 1272 order and Baseline Documentation Reports for Parcels 1, 2, 3 and 4 dated August 2, 2011, which outline the activities that led to issuance of the 1272 order.

While we will require GMP to provide detailed information on the impacts that resulted from the landowner's and its contractor's actions and the steps taken to remediate those impacts as part of the process we establish in this Order, we do not require GMP to do so before commencement of remediation. ANR has already issued its 1272 order to the landowner directing that the impacts caused by the recent actions undertaken on the mitigation parcels be remediated. While the effectiveness of the remediation of the mitigation parcels is of concern to the Board, the commencement of remediation is within the jurisdiction of ANR pursuant to 10 V.S.A. § 1272. Additionally, even if commencement of this remediation was a question for the Board, we would decline to delay it pending the production of the information requested by the Towns. The results of the landowner's activities have included clearing to the edge of the beaver pond on Parcel 3, impacting the wetland's buffer zone, and installation of inadequate culverts and other water-related features along the logging roads. To delay the remediation of these actions serves only to raise the possibility of increasing their impacts to the natural resources that are trying to be conserved. Further, commencement of remediation pursuant to the 1272 order will not hinder the ability of the parties and Board to review the impacts and the adequacy of the remediation, and any supplemental mitigation that may be needed, through utilization of the process we establish today.

In order to determine whether GMP is in compliance with Condition 15(a) of the CPG, we establish the following process:

1. GMP shall ensure that remediation is undertaken consistent with ANR's 1272 order to the landowner. All remediation activities shall be performed at the landowner's expense.
2. GMP shall not commence construction of the project nor engage in any site preparation for the project until such time as all remediation activities on the

conservation easement parcels are completed, and it has received Board approval to commence construction.

3. GMP shall file with the Board the results of the comprehensive inventory and any other investigation it has performed, on its own or in conjunction with ANR, detailing the extent of Mr. Wileman's activities on Parcels 1, 2, 3 and 4 since February 24, 2011, the impacts those activities have had on the parcels, and how those impacts relate to the intended mitigation functions of each parcel, along with any supporting documentation. GMP shall include in this filing a detailed description of any tree cutting performed by its contractor while surveying for the access road, including whether, and how many of such trees, were located within any portion of a mitigation parcel.
4. GMP shall file a detailed report setting forth the remediation activities that it undertook and completed to address the impacts of both Mr. Wileman's and its contractor's actions on Parcels 1 through 4, explaining in detail the degree to which these activities have restored the four mitigation parcels to their intended functions, as well as detailing any supplemental proposed mitigation and how it: (a) offsets impacts to the intended mitigation functions of Parcels 1 through 4 that resulted from Mr. Wileman's and its contractor's actions; and (b) offsets fragmentation impacts that resulted from Mr. Wileman's and its contractor's actions, in particular, fragmentation resulting from the extensive clearing associated with the construction of the new logging road and clearing adjacent to the existing logging road, as well as any tree cutting performed by its contractor on any mitigation parcel.
5. Parties with standing on natural resource impacts shall have one week from the date that GMP makes the filing described in the preceding paragraph to file comments on or make motions related to GMP's filing. Any party that requests the opportunity for a hearing, must demonstrate why a hearing is necessary.

We understand and share the concerns of the Towns, LMG, the Nelsons, CLF, ANR and the Department with respect to the impacts that the landowner's actions have created on Parcels 1, 2 and 3, as well as the tree clearing performed by GMP's contractor. And, while remediation activities are being commenced under ANR's jurisdiction pursuant to the 1272 order, our Order today strikes an appropriate balance because it prohibits commencement of project construction until such time as GMP has completed its remediation and presented its results, along with any recommended supplemental mitigation to offset any longer-term or permanent impacts to Parcels 1 through 4, for party comment and Board review and approval.

CONCLUSION

GMP shall follow the procedures established in this Order for determining its compliance with Condition 15(a) of the CPG. GMP shall not commence construction of, or site preparation for, the project until such time as it has received Board approval of its remediation actions and any proposed supplemental mitigation. The LMG Motion is denied without prejudice.

SO ORDERED.

Dated at Montpelier, Vermont, this 11th day of August, 2011.

s/James Volz)

) PUBLIC SERVICE

s/David C. Coen)

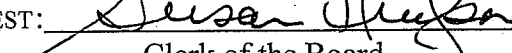
) BOARD

s/John D. Burke)

) OF VERMONT

A TRUE COPY
OFFICE OF THE CLERK

FILED: August 11, 2011

ATTEST: 
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)

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.