

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7032

Joint Petition of Vermont Electric Power )  
Company, Inc., Green Mountain Power )  
Corporation and the Town of Stowe Electric )  
Department for a certificate of public good, )  
pursuant to 30 V.S.A. Section 248, authorizing the )  
so-called Lamoille County 115 kV Project, )  
consisting of the construction of a transmission line )  
from Stowe to Duxbury, Vermont, and )  
accompanying facilities )

Order entered: 2/17/2005

**PROCEDURAL ORDER RE MOTIONS TO INTERVENE**

Motions to intervene in this Docket were filed with the Vermont Public Service Board ("Board") by Priscilla Magdamo-Abraham and Frederick Abraham on January 25, 2005, David and Denise Russo on January 31, 2005, and the Town of Waterbury and Village of Waterbury (collectively "Waterbury") on February 7, 2005. In addition, a group of landowners, consisting of William Orr, Priscilla Magdamo-Abraham and Frederick Abraham, Lloyd Bankson, Kathryn Boschen, Kenaston Twitchell and Toby Heidenreich, Matthew Lillis, Robert Murray, and Faith Bieler (collectively, "Gregg Hill Residents") filed a motion to intervene on February 4, 2005. Also, the Vermont Division of Historic Preservation ("DHP") filed a notice of appearance on February 1, 2005. This Order addresses these requests for party status.

The Russos

On February 2, 2005, the Vermont Department of Public Service ("Department") filed a letter stating that it does not oppose the intervention request of the Russos but recommends that the Board make clear that participation is subject to Board Rule 2.209(C), which provides:

Where a party has been granted intervention, 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.

On February 4, 2005, Vermont Electric Power Company, Inc. ("VELCO") filed a response to the Russos' motion to intervene. VELCO cites the Vermont Supreme Court's holding in *Vermont Electric Power Company, Inc. v. Bandel*, 135 Vt. 141, 145 (1977): "This Court considers it settled law that proceedings under 30 V.S.A. § 248 relate only to the issue of public good, not the interests of private landowners who are or may be involved." VELCO contends that the Russos' motion must be denied based upon the Court's holding, but that it is willing to waive its objection to their intervention if the following conditions are met:

(1) the Russos demonstrate more particularly how their intervention will address the statutory criteria; (2) that they join with other landowners who may seek to intervene with similar interests, with respect to appearance by counsel, presentation of evidence and discovery, and any other matters that the Board may deem appropriate for effective management of the docket; and (3) the scope of this intervention be limited to issues related to the general public good under the Section 248 criteria (which do not include impacts on individual property values).

An important component of the Section 248 review process is the consideration of site specific impacts pursuant to Section 248(b)(5). In Docket 6860, the Board examined the impact of a proposed transmission line and associated substation upgrades under Section 248 on individual landowners.<sup>1</sup> The impact of a proposed project on an individual landowner, while perhaps not determinative, is relevant to a determination of the impact of the proposed project on the public good. Accordingly, the Russos are granted permissive intervention pursuant to Board Rule 2.209(B). While coordination with other parties with similar interests is encouraged, I will not require formal coordination, pursuant to Board Rule 2.209(C), at this time.

#### The Gregg Hill Residents

On February 10, 2005, VELCO filed a response to the Gregg Hill Residents' motion to intervene. VELCO states that it does not object to the motion subject to the following: "(1) they limit their intervention to the alternate route proposed, as set forth in their February 1 letter [the

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1. For instance, the Board reviewed the impact of the expanded Granite substation on neighboring landowners and the impact of the Ferry Road crossing on several landowners along that area.

filing the Board received on February 4]; and (2) that they work as a group with one spokesman." On February 11, 2005, the Department filed a letter stating that it does not oppose the intervention request of the Gregg Hill Residents but recommends that the Board make clear that participation is subject to Board Rule 2.209(C).

The Gregg Hill Residents are granted permissive intervention pursuant to Board Rule 2.209(B). The Gregg Hill Residents are limited to addressing issues related to an alternative route. However, in addressing the alternative route, the group may address the impacts to individual residences. In explaining the rationale for an alternative route, it would presumably be necessary to explain any impacts associated with the existing route.

The cover letter to the Gregg Hill Residents motion to intervene states that Mr. Orr is the "coordinator designated by owners of petitioning property owners." I assume from this statement that Mr. Orr will be acting as the representative for the Gregg Hill Residents. If this assumption is incorrect, a clarifying letter must be filed by February 25, 2005.

In an Order issued on February 2, 2005, Mr. Orr was granted intervenor status. A motion to intervene was filed by Ms. Magdamo-Abraham and Mr. Abraham on January 25, 2005. These three individuals are among the Gregg Hill Residents. Ms. Magdamo-Abraham and Mr. Abraham indicated in their January 25 intervention request that they would withdraw their individual motions to intervene if the Gregg Hill Residents' intervention request was granted. Accordingly, the intervention request of Ms. Magdamo-Abraham and Mr. Abraham is moot. Mr. Orr has not indicated whether, by participating through the Gregg Hill Residents, he wishes to withdraw his status as an individual intervenor. It does not appear that there would be any benefit from having Mr. Orr participate in the dual roles of individual landowner and member of the Gregg Hill Residents; consequently, Mr. Orr's participation in this Docket shall be limited to participating as a member of the Gregg Hill Residents. Mr. Orr may file a letter, by February 25, 2005, stating that he intends to participate in the dual roles of individual landowner and member of the Gregg Hill Residents and providing a rationale as to why such dual participation should be allowed pursuant to Board Rule 2.209.

DHP and Waterbury

No objection has been filed to the notice of appearance of DHP or the intervention request of Waterbury. Both groups are granted party status.

SO ORDERED.

Dated at Montpelier, Vermont, this 17<sup>th</sup> day of February, 2005.

s/Ed McNamara

Edward M. McNamara, Esq.  
Hearing Officer

OFFICE OF THE CLERK

FILED: February 17, 2005

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: Clerk@psb.state.vt.us)*