

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: 3/8/2005

PROCEDURAL ORDER RE THIRD ROUND OF MOTIONS TO INTERVENE

Motions to intervene in this Docket were filed with the Vermont Public Service Board ("Board") by Edward and Karen Miller on February 14, 2005, and the Coalition for Alternative Powerline Options, Inc. ("CAPLO"), Meadow Crest Lane Homeowners Association ("Meadow Crest"), David P. and Carrie T. Hathaway, and a collection of Affected Property Owners ("Stowe Landowners")¹ on February 16, 2005. Additional intervention requests were filed by Vermont Electric Cooperative, Inc. ("VEC"), Associated Industries of Vermont ("AIV"), Matthew Lillis and Ellen Dorsey, and James A. Harvey on February 18, 2005. A motion to intervene was filed by the Town of Duxbury Planning Commission and Selectboard on February 22, 2005.

On February 22, 2005, Vermont Electric Power Company, Inc. ("VELCO") filed a letter stating that it does not oppose the intervention requests of the Hathaways or the Stowe Landowners provided that their participation is limited to the issues raised in their motions to intervene. VELCO does not oppose the intervention request of Meadow Crest, so long as its

1. The term "Stowe Landowners" is not meant to exclude the landowner from Morrisville, but the name "Affected Property Owner," as the group was styled by its attorney, has the potential to cause confusion.

intervention is limited to the issues raised in its motion to intervene and provided that it participate as a group with one representative. VELCO opposes the Millers's motion to intervene as the Millers are members of Meadow Crest.

On February 22, 2005, the Vermont Department of Public Service ("Department") filed a letter stating that it has no objection to the Hathaways, the Stowe Landowners, and Mr. Harvey. The Department filed a letter on February 24 stating that it does not oppose the intervention requests of AIV and VEC. The Department further states that it does not object to Meadow Crest's motion to intervene, subject to Meadow Crest's compliance with the requirement that it designate a representative. Additionally, the Department recommends that the Board make clear that intervention by any party is subject to Board Rule 2.209(C), which allows the Board to impose conditions on the participation of intervenors.

On February 25, 2005, VELCO filed a letter stating that it does not oppose the intervention requests of VEC, AIV, and Mr. Harvey, although it contends that the intervention of Mr. Harvey should be limited to the impact of the proposed project on his person and property.

On February 28, 2005, the Department filed a letter stating that it does not oppose the intervention requests of the Town of Duxbury Selectboard and Mr. Lillis and Ms. Dorsey. The Department, citing Board precedent, contends that the Town of Duxbury Planning Commission:

appears to be a creature of the municipality and has not established an interest distinct from the Selectboard. Therefore, the Duxbury Planning Commission should be required to participate through the Selectboard, unless the legislative body instead chooses to designate the Planning Commission as its representative in these proceedings.

On March 4, 2005, VELCO filed a letter opposing the intervention request of Mr. Lillis and Ms. Dorsey on the grounds that Mr. Lillis is a member of the Gregg Hill Residents, a group that was granted permissive intervention on February 17, 2005.

VELCO, in its letter of February 22 and a follow-up letter of March 4, 2005, recommends that CAPLO's motion to intervene be denied. In its February 22 letter, VELCO requests that CAPLO provide a list of all members of CAPLO prior to any ruling on its intervention request. VELCO contends that members who are already parties to this docket should not be allowed to participate through CAPLO as well. Further, VELCO contends that CAPLO has not

demonstrated a sufficient interest in this Docket that will not be addressed by the Department or the municipalities that have intervened.

The Department, in letters filed on February 22 and March 3, also request that CAPLO be required to provide a membership list prior to any ruling on CAPLO's intervention request. The Department recommends that individual members of CAPLO not be allowed to participate in dual capacities as members of CAPLO and as individual landowners or members of landowner groups that have moved to intervene unless such individuals provide a sufficient basis for such dual participation.

Permissive intervention, pursuant to Board Rule 2.209(B), is granted to the Hathaways, the Stowe Landowners, VEC, AIV, Meadow Crest, and Mr. Harvey. The intervention request of Meadow Crest is conditioned upon its participation through a single representative. Meadow Crest must file a letter indicating its designated representative by March 11. The participation of the Hathaways, the Stowe Landowners, Meadow Crest, and Mr. Harvey will be limited to the issues raised in the motions to intervene.

The intervention request of Mr. Lillis and Ms. Dorsey is denied as they have not demonstrated that there is a benefit to having Mr. Lillis participate in the dual roles of individual landowner and member of the Gregg Hill Residents. The intervention request of Mr. Lillis and Ms. Dorsey indicates that they both reside at the same residence, therefore, there appears to be no benefit to having Ms. Dorsey participate independent of Mr. Lillis's participation through the Gregg Hill Residents.

For the same reasons, the intervention request of the Millers is also denied. The Millers, Mr. Lillis, and Ms. Dorsey may provide supplemental filings explaining why their interest is separate and distinct from that represented by Meadow Crest and Gregg Hill Residents, respectively, and that, therefore, dual participation should be allowed pursuant to Board Rule 2.209.

CAPLO is granted permissive intervention pursuant to Board Rule 2.209(B). It is not impermissible for the members of CAPLO to also be involved in organizations representing landowners, *provided that such issues remain separate*. CAPLO has not requested, and will not be allowed, to provide testimony on the affect of the proposed project on individual landowners.

If parties feel, over the course of the proceedings, that there is an unacceptable degree of cross-over between the two groups, they may request that action be taken, pursuant to Board Rule 2.209(C) to place specific restrictions on one or more parties. VELCO's contention that the interests raised by CAPLO in its intervention request are adequately represented by other parties to this Docket has some merit, but is not sufficiently compelling. The Department represents a broad range of interests which may or may not align with those of particular parties. The Board has traditionally allowed intervenors that address the same issues as the Department but also can demonstrate that their interest is not necessarily the same as the Department's. Such a practice has the potential to enhance the evidentiary record.

The Town of Duxbury Selectboard is granted permissive intervention pursuant to Board Rule 2.209(B). The Department has accurately stated Board precedent on the joint participation of one municipality's selectboard and planning commission. The interests are not distinct, and considering that the planning commission is a "creature of the municipality" the Board has determined that the selectboard is the proper entity to participate in a Docket such as this. As the Department noted, the Selectboard may designate the Planning Commission as its representative.

SO ORDERED.

Dated at Montpelier, Vermont, this 8th day of March, 2005.

s/Ed McNamara

Edward M. McNamara, Esq.
Hearing Officer

OFFICE OF THE CLERK

FILED: March 8, 2005

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: Clerk@psb.state.vt.us)