

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6784

Petition of enXco (East Coast), Inc. for a Certificate of)
Public Good Pursuant to 30 V.S.A. § 248(j) for)
Installation of Two Temporary Wind Measurement)
Towers on Lowell Mountain in Lowell, Vermont)

Order entered: 8/13/2008

ORDER RE VIOLATIONS OF EXISTING CPG

On January 29, 2003, the Public Service Board ("Board") issued a Certificate of Public Good ("CPG") to enXco (East Coast), Inc. ("enXco") authorizing construction of two wind measurement towers ("met towers") on Lowell Mountain. The CPG required that the towers be removed within five years of the date of the CPG.

On January 28, 2008, enXco and Atlantic Wind, LLC ("Atlantic Wind") filed a request to amend the 2003 CPG to allow the replacement of the two existing 50-meter towers with two 60-meter towers and the installation of two additional 60-meter towers. The January 28 filing requested that the four towers be allowed to operate for an additional five years beyond the existing January 29, 2008, deadline.

On February 7, 2008, the Deputy Clerk of the Board issued a letter requiring enXco and Atlantic Wind to file additional information before the amendment request could be processed. On June 2, 2008, the Clerk of the Board issued a letter instructing the petitioners to file the additional information required for review or an explanation as to why the Board should not require the immediate removal of the existing towers.

On June 19, 2008, the Department of Public Service ("Department") filed a stipulation signed by the Department, the Agency of Natural Resources ("ANR"), Atlantic Wind, and enXco. The Stipulation includes the following agreements:

1. Atlantic Wind and enXco agree to withdraw their Request to Amend.
2. Atlantic Wind and enXco agree to pay a one-time payment totaling \$2,000 to the Board for any potential violations associated with operations of the existing met towers by Atlantic Wind since December 2006 without prior approval of a transfer of the CPG and operation of the existing met towers after the January 29, 2008, deadline to dismantle and remove them.

3. Atlantic Wind agrees to dismantle the two existing met towers by no later than June 30, 2008, or within 30 days after the Board approves this Stipulation, whichever occurs later. The only equipment that Atlantic Wind may utilize to access the existing met tower sites and dismantle those towers shall consist of all-terrain vehicles and trailers attached to such vehicles. The only access used by this equipment will be the same roads and trails used in installing the existing met towers. Atlantic Wind will perform no clearing in connection with dismantling the existing met towers, except that Atlantic Wind may remove blowdowns and large vegetation from the roads and trails allowed for use in dismantling the existing met tower sites, and from the existing met tower sites (within the ½ acre area previously approved for clearing). Such clearing shall only be to the extent needed to perform the dismantling of the existing met towers.

4. Should Atlantic Wind refile a new petition under section 248(j) to install and operate met towers on Lowell Mountain before June 30, 2008, or within 30 days after the Board approves this Stipulation, whichever occurs later, the met towers designated for dismantling and related equipment may remain on-site, in a dismantled state, pending the Board's decision on the new petition.

On June 23, 2008, enXco and Atlantic Wind filed a letter stating that the two met towers at the site were dismantled and removed from the site in May, 2008.

There are no parties to the Docket that have not signed the Stipulation.

The Stipulation provides, without determining that enXco and Atlantic Wind have violated Section 248, for the payment of \$2,000 to the Board.¹ The filings in this Docket indicate that enXco and Atlantic Wind did not remove the met towers by the deadline imposed by the January 29, 2003, CPG. Further, the filings indicate that enXco sold "certain rights and assets" to the parent company of Atlantic Wind, "including those regarding the exploration and development of a potential wind generation project on Lowell Mountain"² without Board approval of the transfer of the CPG. We find the Stipulation, including the payment of \$2,000, to be an appropriate resolution of these issues.

The Stipulation, filed on June 19, 2008, is approved. Atlantic Wind and enXco shall comply with all requirements of the Stipulation.

1. Pursuant to 32 V.S.A. § 435(12), this payment will be deposited in the Vermont General Fund.

2. Affidavit of Scott Nelson, dated January 28, 2008.

SO ORDERED.

Dated at Montpelier, Vermont, this 13th day of August, 2008.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 13, 2008

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: 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.