STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7970

Petition of Vermont Gas Systems, Inc. for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing the construction of the "Addison Natural Gas Project" consisting of approximately 43 miles of new natural gas transmission pipeline in Chittenden and Addison Counties, approximately 5 miles of new distribution mainlines in Addison County, together with three new gate stations in Williston, New Haven and Middlebury, Vermont	)))))))))))

Order entered: 4/8/2014

ORDER RE: MOTION FOR RECONSIDERATION
AND
MOTION FOR EXTENSION OF TIME TO FILE A NOTICE OF APPEAL

On December 23, 2013, the Vermont Public Service Board (the "Board") issued a final order (the "December 23rd Order") in which the Board determined that the general good of the State of Vermont would be served by granting Vermont Gas Systems, Inc. ("VGS" or the "Company") a certificate of public good ("CPG") pursuant to 30 V.S.A. § 248 to construct a natural gas pipeline extension into Addison County, Vermont (the "Project").

In today's Order, following the receipt of comments on April 7, 2014, from the Vermont Department of Public Service and VGS respectively,[1] the Board denies the request of Kristin Lyons for reconsideration of the Order issued on April 2, 2014 (the "April 2nd Order"), in which the Board granted Ms. Lyons permission to intervene for purposes of participating through a

1. *Response of the Vermont Department of Public Service to Kristin Lyons Motion Under VRCP 52, 59 and 60(b), and Emergency Motion under VRAP4(b)*, dated April 7, 2014; *Response of Vermont Gas Systems, Inc. to Kristin Lyons Motion Under V.R.C.P. 52, 59 and 60(b) and Emergency Motion Under V.R.A.P. 4(b)*, dated April 7, 2014.

hearing in the post-certification phase of this Docket, but otherwise denied her request for a hearing to introduce new evidence and to alter or amend the December 23rd Order.

Today's Order further denies Ms. Lyons an extension until May 2, 2014, to file a notice of appeal from the December 23rd Order.

The Reconsideration Request

On April 4, 2014, Ms. Lyons filed an emergency motion seeking relief from the April 2nd Order, and, in the alternative, from the December 23rd Order.[2] With regard to the April 2nd Order, Ms. Lyons seeks relief from that part of the Order which (1) held that her previous motion to reopen under V.R.C.P. 52 and V.R.C.P. 59 (the "March 3rd Motion") was untimely, and (2) denied her the hearing she had requested to submit evidence, cross-examine witnesses and submit argument as to whether the Project is the least-cost alternative under § 248(b)(2), whether it would produce an undue amount of greenhouse gasses under § 248(b)(5), and whether the Project promotes the general good of the state under § 248(a).

Ms. Lyons asserts that the December 23rd Order was not a final judgment because it left open the issue of determining what additional process would be afforded to certain landowners on Old Stage Road whose property interests were newly affected by the pipeline re-route required in the December 23rd Order. Ms. Lyons contends that her request in the March 3rd Motion for relief pursuant to Rules 52 and 59 was timely made because it was filed before issuance of the April 2nd Order, in which the Board decided the "additional process" question, thereby only then rendering final judgment on VGS's Section 248 petition. Thus, according to Ms. Lyons, she is entitled to relief from the April 2nd Order because "there has been a manifest error of law or fact" and "a mistake" by the Board in denying the March 3rd Motion, all of which will result in injustice that could be prevented by granting relief to Ms. Lyons pursuant to Rule 60(b)(6).[3]

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2. *Kristin Lyons Motion Under VRCP 52, 59 and 60(b), and Emergency Motion Under VRAP 4(b)*, dated April 4, 2014 (the "Lyons Motion"). The portion of the Lyons Motion seeking reconsideration of the April 2nd Order was filed pursuant to Vermont Rules of Civil Procedure ("V.R.C.P.") 52 (alter or amend final judgment findings), 59 (request for new trial and to alter or amend final judgment), 60(b)(1)(mistake) and 60(b)(6)(prevent injustice). The portion of the Lyons Motion seeking reconsideration of the December 23rd Order was filed pursuant to these same rules, as well as under 60(b)(2)(newly discovered evidence).

3. Lyons Motion at 7.

In support of her lack-of-finality argument, Ms. Lyons cites the case of *In re Petition No. 152*, where the Vermont Supreme Court vacated a Superior Court judgment affirming an order from the Transportation Board allocating annual maintenance costs for a railroad crossing in Braintree, Vermont. The Supreme Court explained that the Superior Court had lacked jurisdiction to hear Braintree's appeal of the Transportation Board's allocation order because that order was not yet "final" when the Town took its appeal to Superior Court. Specifically, the Transportation Board had not yet made any findings or conclusions on the question of cost allocation, and had not otherwise computed a base annual maintenance cost to allocate between the parties. As the Supreme Court explained, "the ultimate issue being litigated by the parties is whether the actual amount they will be required to contribute toward maintenance of the crossing is 'just and equitable.' Appellate review of this question is hampered substantially by the absence of an established annual maintenance cost."[4]

By analogy, Ms. Lyons reasons that the December 23rd Order is not final because it expressly left an issue open for later determination, as did the Transportation Board order. According to the Lyons Motion, the December 23rd Order contemplated a later decision as to the "additional process" that would be afforded landowners newly affected by the re-route of the pipeline, just as the Transportation Board order contemplated a later decision as to computation and allocation of annual maintenance costs.

We do not find this analogy to be persuasive. We rejected a similar argument based on *In re Petition No. 152* that was made in the Rule 59 motion filed by Nathan and Jane Palmer on January 6, 2014. As we previously explained, unlike the December 23rd Order, the Transportation Board's order by its terms was not intended to be final.[5] In contrast, the December 23rd Order made all requisite statutory findings to support the ultimate decision to grant a CPG for the Project, leaving nothing undecided as to the ultimate determination that the Project will serve the general good of the state. In stating that "the Board will provide notice to the newly affected landowners and afford those landowners an opportunity for comment and additional process as warranted," the December 23rd Order expressly and appropriately reserved the question of site-specific evaluation of siting for the Project on the property of newly affected landowners

4. *In re Petition No. 152 by Cent. Vt. Ry., Inc.*, 148 Vt. 177, 179, 530 A.2d 579, 581 (1987).
5. Docket 7970, Order of 3/10/14 at 5 n. 12.

(including the possibility of further route alterations) for later review in the post-certification phase.[6] This provision in the December 23rd Order is fully consistent with the post-certification process which the Board has previously employed in Section 248 proceedings and which the Vermont Supreme Court has held does not violate the principles of finality.[7] Accordingly, we do not accept Ms. Lyons' contention that the December 23rd Order lacked finality. Consequently, we find no basis for the argument that final judgment in this proceeding was entered when the April 2nd Order was issued. Therefore, the March 3rd Motion seeking relief pursuant to V.R.C.P. 52 and V.R.C.P. 59 was untimely filed as the request was made well after the ten-day period allowed for such motions after the December 23rd Order was issued.[8]

As an alternative basis for seeking reconsideration, and assuming the December 23rd Order in fact was a final judgment, Ms. Lyons seeks relief from that order pursuant to V.R.C.P. 60(b) because she received a letter from the Company dated February 28, 2013[9], in which Ms. Lyons was "erroneously informed by VGS a month prior to the intervention deadline in March of 2013 that the Board did not view her as an adjoining landowner and that she was not an adjoining landowner, when in fact she was."[10] According to Ms. Lyons, VGS' erroneous statements in the February 2013 Letter constitute newly discovered evidence that only came to light in March of

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6. The Lyons Motion argues that this "bifurcation" of the Docket runs afoul of Board Rule 5.402(C)(3), which requires a declaration at the outset as to whether the petitioner seeks conceptual — as opposed to site-specific — approval of a Section 248 petition. Ms. Lyons appears to suggest that the post-certification process is not appropriate in this case because VGS did not state that it was seeking conceptual approval for the Project. This argument overlooks that VGS did not initiate the route alterations that were directed by the Board in the December 23rd Order and that now necessitate site-specific, post-certification review.

7. *See In re Petitions of Vt. Elec. Power Co. & Green Mountain Power Co.*, 2006 VT 21, ¶¶ 20-21 and 29, 179 Vt. 370, 383 and 387, 895 A.2d 226, 235-36 and 238; *see also* Docket 6860, Order of 1/28/05 at 213.

8. Ms. Lyons appears to further suggest that the December 23rd Order necessarily was not final, else the Board acted without jurisdiction when it acted on the Town of New Haven's motion to alter or amend the final judgment because that motion was filed on January 13, 2014, which was more than the allowed ten-day period after December 23, 2013, excluding weekends and holidays. Lyons Motion at 4. We find this argument to be unavailing. The Town's motion sought alterations that were ministerial in nature, *see* Docket 7970, Order of 3/10/14 at 18-19, and, as such, were within the Board's power to make on its own motion pursuant to V.R.C.P. 60(a).

9. Hereinafter, this letter is referred to as the "February 2013 Letter," a copy of which was attached as Exhibit B to the *VGS Response to Ms. Kristin Lyons' Comments and Motions*, dated March 11, 2014 (the "VGS March 11 Filing").

10. Lyons Motion at 7.

2014, long after she, as a *pro se* litigant, had justifiably relied to her detriment on the Company's representation that "she had no ability to participate."[11]

Ms. Lyons insists that she was "deprived of the opportunity to be heard on the merits of whether or not a pipeline should be approved" because of the erroneous information in the February 2013 Letter. Ms. Lyons further argues that the prejudice to her from the Company's mistake was compounded by the Board's alleged error in the April 2nd Order, which denied Ms. Lyons' request to reopen the December 23rd Order and present new evidence on several Section 248 criteria.

The Company clearly made a mistake in sending Ms. Lyons a letter stating that the Project had been revised "to such an extent that the pipeline is no longer adjoining your property" and that the Board "does not view you as an adjoiner to this project."[12] This error reflects very poorly on the Company and does little to inspire public confidence in how VGS communicates with individuals who are affected by the Project, particularly its unfounded representation that the Board did not consider her to be an adjoiner when the Board had taken no action.[13] That said, even accepting the proposition that a "reasonable *pro se* litigant would not, with due diligence, have discovered the error in VGS' February 28, 2013 letter," we are not persuaded that this error wrongfully deprived Ms. Lyons of all meaningful opportunity to intervene earlier in this Docket and to be heard on the merits of whether VGS has met its burden of production and persuasion in seeking a Section 248 CPG for the Project.

Under Board Rule 5.402(B), VGS was required to "provide notice of the proposed project to each adjoining property owner at the time the petition is filed with the Board." VGS has represented that Ms. Lyons was afforded the notice required under Rule 5.402(B) when the petition was filed with the Board on December 20, 2012 — a statement which Ms. Lyons does not dispute.[14] Rule 5.402(B)(3) expressly states that the petitioner must use "good faith efforts" to provide notice of the petition to adjoining property owners. Significantly, Ms. Lyons has amply

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11. Lyons Motion at 8.

12. February 2013 Letter.

13. We are very troubled by VGS's provision of inaccurate information to Ms. Lyons. During this proceeding, we have also been made aware through public comments of other troubling interactions between VGS and landowners affected by the Project. The Board anticipates examining these actions further in the near future pursuant to its supervisory jurisdiction over VGS under 30 V.S.A. § 209(a)(3).

14. VGS March 11 Filing at 4; Lyons Motion at 8 n. 3;

established that VGS failed to provide her with accurate notice in February of 2013, but she has made no allegation that VGS failed to use "good faith efforts" in notifying her of the realignment of the proposed pipeline route in February of 2013.[15]

The phrase "good faith efforts" in Rule 5.402(B)(3) highlights the seriousness of the notification duty the petitioner owes to every adjoining landowner. However, the rule does not require "actual" notice to the adjoining landowners. Rather, the phrase "good faith efforts" implicitly acknowledges there may be instances where the petitioner tries — in good faith — but nonetheless fails to deliver notice of the proposed project to an adjoining landowner. It is for this reason that Rule 5.402(B)(3) further provides that "[n]o defect in the provision of notice to adjoining property owners under this rule shall invalidate an action by the Board on a petition for a certificate of public good under 30 V.S.A. § 248."[16]

Thus, at times the Board's regulatory review of a Section 248 petition will move forward, notwithstanding that there may be an adjoining landowner who did not receive notice of the petition. This is a reflection of the fact that the central consideration of a Section 248 proceeding is whether the proposed project will serve the general good of the state. The Board welcomes the participation of adjoining landowners in Section 248 proceedings because their participation is often helpful in orienting the Board to matters such as the physical context of the proposed project. However, the participation of adjoining landowners is not mandated as part of the statutory process the Board must follow in discerning whether a proposed project will serve the general good of Vermont.[17]

Whether Ms. Lyons' land adjoined or hosted the Project, for purposes of seeking to intervene on the merits of VGS's Section 248 petition filed on December 20, 2012, and

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15. We observe that the Lyons Motion does not seek relief pursuant to V.R.C.P. 60(b)(3) for "fraud . . . misrepresentation, or other misconduct of an adverse party." Based on the list of Adjoining Landowners submitted in this proceeding as part of the petition filed on December 20, 2012, it would appear that Ms. Lyons' property is one of approximately 340 parcels of land affected by the route of the Project. *See* VGS March 11 Filing at Exhibit A. The February 2013 Letter appears to be a form letter that was not specifically addressed to Ms. Lyons. While the letter incorrectly informed Ms. Lyons that she was no longer an adjoining landowner, it nonetheless invited her "to continue to follow the Project" via the Company's website and provided a link to that end. Given these circumstances, it is reasonable to conclude that VGS made a mistake by sending the wrong form letter to Ms. Lyons — this perhaps explains why Ms. Lyons has not sought relief under V.R.C.P. 60(b)(3).

16. We note that the Lyons Motion does not address this portion of Rule 5.402(B)(3).

17. By contrast, the statute mandates the participation of the Agency of Natural Resources in such proceedings. 30 V.S.A. § 248(a)(4)(E).

subsequently revised on February 28, 2013, Ms. Lyons stood in the same position as any other member of the public, all of whom were on notice through publication of the Second Procedural Order on February 5, 2013, that the deadline for filing intervention motions was March 29, 2013, and that "persons wishing to participate in the Docket as full parties must file a motion to intervene pursuant to PSB Rule 2.209."

The Second Procedural Order did not state that intervention would be limited to adjoining landowners. Thus, though she was mistakenly told by VGS that her property no longer adjoined the Project, Ms. Lyons nonetheless had constructive notice through publication of the Second Procedural Order of her right to move on or before March 29, 2013, to intervene and request permission to participate on the issues of need, greenhouse gas impacts and whether the Project is in the public good.[18]

Accordingly, we conclude that, though Ms. Lyons was afforded due and reasonable notice and opportunity to intervene, she chose not to exercise her right to timely move for intervention in this Docket. Therefore, while we neither condone nor excuse VGS's mistake or the ill-advised language in the February 2013 Letter purporting to offer the Board's views as to who is considered to be an adjoining landowner in this case, there was no error in Board process arising from VGS's actions that wrongfully deprived Ms. Lyons of all meaningful opportunity to participate in the Section 248 merits review in this proceeding that culminated in the December 23rd Order.

In the April 2nd Order, Ms. Lyons was granted intervenor status in the post-certification phase of this Docket because she successfully demonstrated a substantial interest in addressing the visual and land use impacts on her land — matters which are appropriate for review in the post-certification stage of this proceeding. As for the remaining issues that Ms. Lyons has sought to be heard on — whether the Project "is the least-cost alternative under § 248(b)(2), whether it promotes the general good of the state under § 248(a) and whether it would produce an undue amount of greenhouse gasses under § 248(b)(5)" — Ms. Lyons was denied permission to

18. To the extent that adjoining landowners are differently situated in Section 248 proceedings from any other member of the public contemplating intervention, it is that adjoining landowners are entitled under Board Rule 5.402(B) to particular notice of the filing of a Section 248 petition, which Ms. Lyons does not dispute she received in this case in December of 2012. However, apart from receiving particular notice, adjoining landowners are guaranteed neither the right to participate in a Section 248 proceeding nor the right to present evidence on all of the issues in which they assert a substantial interest for purposes of intervention.

intervene because these issues are beyond the scope of post-certification review, which is "an accepted practice of the Board and administrative tribunals generally" that provides "an opportunity to comment" on the construction plans for the Project to ensure that construction will occur in a manner that does not create an undue adverse impact under any of the relevant Section 248 criteria.[19] Post-certification is not an opportunity to revisit the merits of the underlying certificate of public good by reopening the evidentiary record, as Ms. Lyons requests, to alter and amend the judgment with regard to our findings in the December 23rd Order regarding Section 248(a) (general good), (b)(2) (need) and (b)(5) (greenhouse gas impacts).

This Board explained the distinction between the broader determination that a project would promote the general good and the detailed site-specific considerations of a post-certification process in Docket 6860. In our final Order in that proceeding, we observed that the Vermont Supreme Court had recognized that for practical reasons, such bifurcation was consistent with Vermont law, so long as the Board had sufficient evidence to make the required statutory determinations. We outlined the scope of issues that could be raised during the post-certification process:

> We agree that entities that have not been participants in this Docket should not be allowed to re-examine issues that have already been litigated by several parties. However, although parties have had a general knowledge of the potential impacts of the proposed Project, until the post-certification process, certain site specific impacts have not been fully ascertainable. The towns and regional planning organizations can provide valuable information as to the required aesthetic mitigation, and they will be allowed to participate on this issue. Potentially affected landowners, towns, and regional planning commissions will have the opportunity to provide comments on the Petitioners' final construction and aesthetic mitigation plans.[20]

This limited scope of issues in the post-certification process is necessary both to provide finality to the Board's decision that a project promotes the general good of the state and to make the post-certification process (and bifurcation itself) meaningful. If, each time the route was adjusted during the post-certification process, the Board was required to allow any newly affected landowner to relitigate the broader issues that had been previously resolved, it would result in

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19. Docket 6860, Order of 1/28/05 at 123 (*quoting In re Vermont Elec. Power Co., Inc.*, 131 Vt. 427, 434 (1973)).

20. Docket 6860, Order of 1/28/05 at 215-216.

consequences that would ultimately render the bifurcation pointless, meaningless, and potentially harmful to the general good. Such a standard would create a deterrent to adjusting the route, even if the revised route might be preferable, because the underlying general good decision could be reopened. This would likely undermine the value of the post-certification review. It would also mean that the applicant would not know until the completion of the post-certification process whether the Board might reconsider the overall merits of the project, creating uncertainty as to the applicant's rights to construct the project at all until completion of all post-certification activities. As a result of these two effects, the only way to establish certainty would be to evaluate all detailed siting issues before issuing a CPG, even though the Supreme Court has observed that the Board can employ post-certification review.

The process the Board has consistently employed provides certainty, through a ruling on the broader issue of whether a project promotes the general good under the Section 248 criteria. It also provides any person that can demonstrate a substantial interest in the outcome of the proceeding an opportunity to intervene and participate. This standard applies whether or not such person is an adjoining property owner. Ms. Lyons elected not to seek intervention.

Ms. Lyons argues that participation in post-certification review of the Project or in any later condemnation proceedings will not suffice to protect her interests. Recognizing that the Board "has already found, and may find again, that the route over her land is superior to the route over [her neighbor's] land," Ms. Lyons insists that she has "a direct stake in whether or not the pipeline project as a whole should be approved."[21] Be that as it may, the fact remains that Ms. Lyons is belatedly seeking to intervene to protect this interest, notwithstanding that she had reasonable notice and opportunity to do so earlier in this proceeding. We find no reasonable basis for allowing Ms. Lyons to now relitigate this case. Accordingly, her motion for reconsideration of the April 2nd Order is denied.

The Extension Request

Pursuant to Rule 4(b) of the Vermont Rules of Appellate Procedure, Ms. Lyons has requested that the Board extend the time until May 2, 2014, for filing a notice of appeal from the

21. Lyons Motion at 9.

December 23rd Order. Ms. Lyons represents that this extension is necessary "to avoid uncertainty for all parties . . . as to what jurisdiction remains with the Board until after the Supreme Court appeal is concluded."[22] Absent such relief, Ms. Lyons would be required to file a notice of appeal by April 9, 2014.[23]

As an initial matter, it would appear that Ms. Lyons' extension request was made in error pursuant to V.R.A.P. 4(b), which governs the tolling of the time for filing an appeal, but does not provide a basis for moving to extend the time for appeal. In any case, assuming that Ms. Lyons indeed intended to move for relief under V.R.A.P. 4(b), her request rests on the premise that, for purposes of computing time under that appellate rule, the date of the final judgment in this proceeding is either March 10, 2014, or April 2, 2014.[24] However, this premise is incorrect. As previously explained in this Order, the final judgment in this case was entered on December 23, 2013 — the date on which the Board granted VGS a Section 248 CPG to construct the Project.[25]

To properly invoke the tolling power of V.R.A.P. 4(b), a party must file "a timely motion . . . pursuant to the provisions of the Rules of Civil Procedure . . . ." In the April 2nd Order, we determined that the March 3rd Motion seeking relief pursuant to V.R.C.P. 52 and V.R.C.P. 59 was untimely because it was not filed within the mandatory ten-day time limit under these rules for such motions following the issuance of the December 23rd Order.[26] Thus, under the express language of V.R.A.P. 4(b), the untimeliness of the March 3rd Motion forecloses the April 2nd

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22. Lyons Motion at 9-10.

23. Under V.R.A.P. 4(b), the running of the time to file a notice of appeal — in this case, 30 days from the issuance of the December 23rd Order — is terminated as to all parties by the filing of a timely motion pursuant to, among others, Rule 52(b) and Rule 59. Accordingly, in this Docket, the 30-day appeal period was first tolled on January 6, 2014, when Jane and Nathan Palmer filed a timely motion pursuant to V.R.C.P. 52 and V.R.C.P. 59 to alter the December 23rd Order (the "Palmer Motion"). Then, again further to V.R.A.P. 4(b), when the Palmer Motion was denied on March 10, 2014, a new 30-day appeal period began to run. Thus, unless the Board orders otherwise, the window for timely filing an appeal from the December 23rd Order would now expire on April 9, 2014.

24. Lyons Motion at 9.

25. The December 23rd Order was entered into the Docket log of this proceeding on December 23, 2013, which is also the date marked on the final judgment order itself. This date of entry is important because it is controlling for purposes of V.R.C.P. 52, V.R.C.P. 59 and V.R.A.P. 4. The date of "entry" of judgment is determined under V.R.C.P. 79(a), which provides that "all . . . orders . . . and judgments shall be entered chronologically in the civil docket. . . . The entry of an order or judgment shall show the date the entry is made." *See also* V.R.A.P. 4(e) ("A judgment or order in a civil action is entered within the meaning of this rule when it is entered in the civil docket under Civil Rule 79(a) . . . .").

26. Allowing for intervening holidays and weekends as required by V.R.C.P. 6(a), the time for filing a motion in this Docket pursuant to either Rule 52 or Rule 59 expired on January 8, 2014.

Order from tolling the 30-day appeal period, which began to run when the Board issued its Order on March 10, 2014, disposing of the requests filed respectively by the Palmers, the DPS and the Town of New Haven to alter or amend the December 23rd Order.

Nor is Ms. Lyons' apparent objective of tolling the appeal period advanced by the fact that the Lyons Motion filed on April 4, 2014, contains a request under V.R.C.P. 60(b) for relief from the December 23rd Order. While Rule 60(b) motions generally are required to be filed within a year of the final judgment, V.R.A.P. 4(b) provides that, to toll the applicable appeal period, a Rule 60(b) motion must be filed "no later than 10 days after the judgment is entered . . . ." Thus, Ms. Lyons' is not able to invoke V.R.A.P. 4(b) to now toll the time to file an appeal of the December 23rd Order, which is due to expire on April 9, 2014.[27]

Leaving aside this conclusion, we observe there are several references in the Lyons Motion to moving for an extension of the period of time in which to file a notice of appeal. Therefore, we will liberally construe the Lyons Motion as a request for an extension pursuant to V.R.A.P. 4(d), which authorizes the Board to extend the time for filing a notice of appeal if a party so moves no later than 30 days after the time prescribed by V.R.A.P. 4(a), meaning, the "date of entry of the judgment or order appealed from," unless the time for filing a notice of appeal is duly tolled pursuant to V.R.A.P. 4(b). A further requirement under V.R.A.P. 4(d) is that the party requesting an extension must show "excusable neglect or good cause." Finally, the rule provides that no extension shall exceed 30 days past the time authorized under V.R.A.P. 4(a) — subject to tolling under V.R.A.P. 4(b) — or 10 days from the date of an order granting the extension motion, whichever occurs later.

In our view, Ms. Lyons satisfied the timeliness requirement of V.R.A.P. 4(d) by filing the Lyons Motion, which we read as including a general request for relief under V.R.A.P. 4, and which was filed on April 4, 2014 — five days ahead of April 9, 2014, which is the final day of the 30-day period to appeal the December 23rd Order. However, we disagree with Ms. Lyons' assertion that the extension she has requested is necessary in order to "avoid uncertainty for all parties . . . as to what jurisdiction remains with the Board until after the Supreme Court appeal is concluded." In any event, we do not find this amounts to "good cause" to grant the requested

27. See *supra* page 7 at n. 14.

extension. As both the Department and VGS have pointed out, the Board has repeatedly declared that the December 23rd Order in fact was the final order on the merits of the Company's Section 248 petition in this Docket. There is no uncertainty on this point, and therefore no uncertainty as to our jurisdiction going forward should Ms. Lyons choose to take an appeal. Accordingly, Ms. Lyons' request for an extension until May 2, 2014, to appeal the December 23rd Order is denied.

SO ORDERED.

Dated at Montpelier, Vermont, this 8th day of April, 2014.

s/ James Volz	)	
	)	PUBLIC SERVICE
	)	
s/ John D. Burke	)	BOARD
	)	
	)	OF VERMONT
s/ Margaret Cheney	)	

OFFICE OF THE CLERK

FILED: April 8, 2014

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.