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	)

COMMENTS OF NATHAN PALMER ON SCOPE OF INVESTIGATION FOLLOWING REMAND FROM THE VERMONT SUPREME COURT AND MOTION TO ADMIT EVIDENCE FROM DOCKET 8328

I, Nathan Palmer, *pro se*, submit these comments and motion in response to the Board's Order of March 2, 2015. I would like to thank the Board for re-opening the docket and allowing us to comment and submit my opinion on this case yet again.

I. COMMENTS ON SCOPE OF INVESTIGATION

I respectfully request that the Board consider all of my prior comments (submitted on December 23, 2014, January 12, 2015 and January 21, 2015) and define the scope of the remand to include all new evidence that has emerged since the Board issued the certificate of public good on December 23, 2013 and that is relevant to whether the project meets the criteria of Sections 248(a), 248(b)(2), 248(b)(3), 248(b)(4), and 248(b)(5), and 248(b)(6). I here provide only this comment specific to Section 248(b)(6) in response to the Board's March 2, 2015 request for comments specific to the language in the order of the Vermont Supreme Court:

I believe that including Section 248(b)(6) is important because memoranda of understanding, letters of support and assessments of the project's compliance with development plans submitted by towns, the Addison County Regional Planning Commission, businesses, associations, and other entities were contingent upon the good faith efforts of Vermont Gas Systems, Inc. (VGS) to build out distribution and deliver natural gas in Middlebury, Vergennes, and other towns in Addison County. VGS' current lowest-cost integrated resource plan decision making framework would prohibit such build out. As per the Board's final order (CPG) dated December 23, 2013, VGS is only obligated to build distribution in Middlebury and Vergennes. Since the company appears to predict that market construction costs in our region will remain high, it stands to reason that the cost of building gate stations and distribution lines to serve St. George, Monkton, Bristol, and New Haven will be at least double VGS' initial estimates. If VGS cannot demonstrate that at this higher cost it will be able to comply with conditions of MOUs and other documents incorporated into the CPG, those facts should be considered as part of the Board's determination of whether to reconsider its December 23, 2013 order.

II. MOTION TO ADMIT EVIDENCE FROM DOCKET 8328

In addition to my comments above and for purposes of efficiency, fairness and Vermont frugality, I hereby move that the Board admit all prefiled testimony, discovery questions, responses to discovery, transcripts and any other records from Docket 8328 and request that as it deems necessary, the Board adjust the schedule of the investigation in this docket to ensure that all relevant information and evidence from Docket 8328 can be used by all parties for the purposes of discovery, technical hearings, and filing of briefs. The prefiled testimony and discovery responses already submitted in Docket 8328 (including but not limited to the various internal and external estimated project cost updates, description of the process used to develop those estimates, and the role of VGS, VGS' contractors and the Department of Public Service in monitoring the project budget and reviewing estimates and the implications of each estimate) inform many of the

questions that were raised during the September 2014 proceedings in Docket 7970 and can serve to clarify and explain the December 19, 2014 letter and January cost update (and corrected cost update) submitted by VGS to the Board. The Board and all parties can conserve time, energy and money, including that of ratepayers and taxpayers by examining and applying the evidence from Docket 8328 as it pertains to this case to the Board's 60(b) review in this docket. Of course, in order for this to work, parties should have access to all of the evidence from that docket to prepare complete discovery questions. Therefore, I simply request that the Board realign, if necessary, the proposed schedule to accommodate inclusion of evidence from Docket 8328.

III. CONCURRENCE WITH COMMENTS AND MEMORANDUM OF KRISTIN LYONS

While I request that the Board consider Section 248(b)(6) in addition to the Section 248 criteria identified in her comments and memorandum, I otherwise concur with comments and memorandum submitted today by Kristin Lyons. I also complement this concurrence with the following:

It has long been my belief that the Board applied a double standard in the September 2014 proceedings regarding the VGS first updated estimated capital costs by allowing VGS to present updated projections and other evidence unrelated to the cost increase while disallowing the presentation of such unrelated evidence by other parties. VGS has already presented new facts and evidence that go well beyond its second estimated increase in capital costs. All parties should have the opportunity to examine that evidence and to present additional evidence of their choosing. In other words, I feel strongly that VGS has opened pandora's box by trying to establish new justifications for the project that go well beyond explaining its latest cost increase. If for no other reasons presented by me or any other intervenor in prior or current comments, we should all be allowed to present the evidence of our choosing within the overall scope of a Section 248

review because VGS should not now be allowed to control the content of the information presented to inform the Board's decision or the responses of other parties to its own evidentiary initiatives. We should not have to present only evidence that is parallel or in symmetry with VGS' view of the case. We should also not be limited to questioning the evidence submitted by VGS but should have the right to submit our own evidence.

I also continue to believe that, as I had stated in my filings on the first updated estimated capital costs, there were significant and telling inconsistencies in the information presented by VGS about the causes of the cost increases, the timing of VGS' knowledge of the cost increases, and the role of the various parties in generating the new estimates, and the accuracy and completeness of the update presented by VGS. My concerns have now been borne out by VGS' responses to discovery questions under Docket 8328, and further inconsistencies suggest that the entirety of the story, including details that would be material to relief from judgment under Rule 60(b) have not yet been released by VGS. Perhaps most importantly, it is now clear that VGS had withheld material details of the cost increase at times when other parties could have appealed the case and prior to a final judgment in the case. According to VGS' prefiled testimony and responses to discovery questions in Docket 8328, VGS knew of the materiality of the cost increases before the end of the period afforded parties to appeal the original December 23, 2014 decision (on January 13 and January 14) and before the Board's final judgment of March 10, 2014 in response to timely appeals on other issues. Because VGS failed to disclose material information, I and other parties were denied our right to timely appeals. Moreover, my witness and I were reluctant to insist upon our 60(b)(3) claims in the first proceeding because we lacked clear and convincing evidence that VGS purposely concealed and continue conceal during the September 2014 proceedings. In other words, VGS' concealment of its January 2014 knowledge of the material cost increases also obstructed pursuit of my earlier 60(b)(3) claim. At the time, I had said that I felt that I and other parties had not been afforded adequate due process because the Board's

decision not to reopen the case was based on insufficient evidence to support the 60(b)(2) and 60(b)(3) claims. As it turns out, I was absolutely right that it was my inability to discover evidence of VGS' culpability rather than the absence of those facts that was the problem. Therefore, in addition to the reasons presented by Ms. Lyons, I would now like to reassert my prior suggestion that the scope of this investigation include relief from judgment under Rule 60(b)(3).

IV. CONCLUSION

I hereby request that the Board review its order of December 23, 2013 and any subsequent amendments under 30 V.S.A. Sections 248(a), 248(b)(2), 248(b)(3), 248(b)(4), and 248(b)(5), and 248(b)(6) in light of any and all new evidence relevant thereto, including but not limited to the evidence outlined in my prior motions and comments, and including my prior suggestion that the scope of this investigation include relief from judgment under Rule 60(b)(3). In addition, I file the above motion to admit evidence from Docket 8328 and to align the Board's proposed schedule to ensure that the entire record of that docket be available to parties for the purposes of the 60(b) investigation under Docket 7970.

Signed at Monkton, Vermont on this day of March 9, 2015

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