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April 14, 2017

Judith C. Whitney, Clerk
Vermont Public Service Board
112 State Street, 4th Floor
Montpelier, VT 05620-2701

Re: Docket 8816: Swanton Wind LLC's Response to VCE's Motion for Reconsideration and Citizen Intervenors' Motion for Enlargement of Time

Dear Ms. Whitney:

Petitioner Swanton Wind LLC hereby responds to the Motion for Enlargement of Time dated April 12, 2017 and filed by Paula J. Kane on behalf of the citizen intervenors in the above-referenced docket, and to the Motion for Reconsideration filed by Vermonters for a Clean Environment (VCE) on April 13, 2017.

Citizen Intervenors' Motion for Enlargement of Time to Serve Discovery

The citizen intervenors to Docket 8816 have requested that the Public Service Board extend the deadline by which their first set of discovery requests on Petitioner must be served from April 20, 2017 to May 8, 2017. They cite inter alia the need to coordinate schedules for a large number of individuals, upcoming holidays, and the time it will take them to get up to speed with respect to this docket. Petitioner does not object to this reasonable request, and asks that Petitioner in turn be given 30 days to respond to any discovery requests served.

Vermonters for a Clean Environment (VCE) Motion for Reconsideration

In its Order Re Interventions dated 4/6/2017 (the "Intervention Order"), the Board granted permissive intervention to VCE and all of the citizen intervenors who sought to participate in Docket 8816, subject to parameters intended to promote

efficiency and, presumably, to reduce duplicative representation of interests. One of those was the following: “to the extent we grant intervention to any of the citizen intervenors in this order and those individuals are also members of VCE, then they may not participate individually on any issues for which VCE has been granted intervention, but instead must have their interests on those issues represented by VCE.” Intervention Order at 7.

On April 13, 2017, Vermonters for a Clean Environment (VCE) filed a motion for reconsideration (the “VCE Motion”), requesting that the Board “rescind the requirement for VCE to ‘represent’ VCE members who are pro se parties with individualized or particularized interests in this docket.” VCE indicates that it supports the citizen intervenors’ request for enlargement of time for serving first round discovery questions on Respondent, but asks that the Board extend the deadline until two weeks after the Board responds to the VCE Motion. VCE argues that VCE is a 501(c)(3) organization which, under federal law, “cannot be operated for the benefit of private interests and therefore cannot represent the private and particularized interests of individual members”; that complying will require VCE to identify specific VCE members, in violation of the right to freedom of association under the 14th Amendment; and that VCE’s representative is not an attorney and therefore cannot “represent” individuals before the Board. VCE assures the Board that it will “make every effort” to comply with the spirit of the Intervention Order and will work with other parties. VCE Motion at 5.

Without conceding that VCE has articulated a valid basis for its Motion for Reconsideration,¹ Swanton Wind does not object if the Board sees fit to grant VCE’s motion and allow citizen intervenors who are VCE members to participate individually (or where applicable under the Intervention Order, in coordination with other citizen intervenors) on any issues with respect to which they and VCE have both articulated a substantial interest.²

¹ Moreover, VCE’s arguments in support of its motion for reconsideration contradict and undermine statements VCE made in support of its motion to intervene. *See e.g.* “VCE’s and its members’ perspective and interests are distinct from those of the general public, the municipalities, and state agencies and VCE’s members rely on the organization to represent these interests” VCE Mot. to Int. at 5.

² The overlapping issues on which VCE and citizen intervenors (VCE members or otherwise) were granted intervention appear to be orderly development, economic benefit, aesthetics and--in the case of the Collopys only--soil erosion. As a practical matter, therefore, the potential for duplicate representation of VCE members’ interests is limited to these issues.



However, Swanton Wind requests that the Board set a firm deadline of May 8, 2017 for service of discovery requests on the Petitioner, and allow Petitioner 30 days from the date of service to respond.

Finally, please note that counsel for Swanton Wind will be reaching out to the other parties with respect to the schedule for the remainder of this proceeding, and will file a proposed schedule as soon as practicable.

Please don't hesitate to let me know should you have any questions.

This letter has been electronically filed using ePSB.

Respectfully submitted,



Alison Milbury Stone, Esq.

Cc: ePSB, Bradley Stott, Jennifer Belanger

