

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 8816

Petition of Swanton Wind LLC for a certificate of public good, pursuant to 30 V.S.A. § 248, for the construction of an up to 20 MW wind-powered electric generation plant powered by up to 7 wind turbines located along Rocky Ridge in Swanton, Vermont	
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Order entered: 02/14/2019

ORDER CLOSING CASE

In this Order, the Vermont Public Utility Commission (“Commission”) adopts the the Hearing Officer’s Report and Recommendation and closes this case.

HEARING OFFICER REPORT AND RECOMMENDATION

On November 27, 2017, Swanton Wind, LLC (“Swanton Wind”) filed with the Commission a notice of withdrawal and voluntary dismissal without prejudice withdrawing its petition in this proceeding. As part of its withdrawal, Swanton Wind requested that a \$100,000 fee that it paid to the Agency of Natural Resources (“ANR”) in accordance with 30 V.S.A. § 248b on September 9, 2016, be returned.

On January 3, 2018, the Commission issued an order dismissing Swanton Wind’s petition without prejudice pursuant to V.R.C.P. 41(a)(2) (the “dismissal order”). In that order, the Commission denied Swanton Wind’s request for a refund of the fee it had paid to ANR because there is no provision in § 248b that grants the Commission authority to direct such a refund.¹

On February 6, 2018, Swanton Wind appealed the dismissal order to the Vermont Supreme Court, asserting in part that the Commission erred in not ordering a refund of the \$100,000 fee paid to ANR.

On December 21, 2018, the Vermont Supreme Court issued an order reversing and remanding to the Commission that portion of the dismissal order in which the Commission found that it did not have authority to direct a refund of the \$100,000 fee Swanton Wind paid to ANR.

¹ Case No. 8816, Order of 1/3/18 at 9.

The Vermont Supreme Court found that the Commission did have such authority and remanded the case for further proceedings on that topic.²

On January 17, 2019, the Commission issued an order appointing me to serve as hearing officer to address the remand from the Vermont Supreme Court and directing ANR to file prefiled testimony and exhibits no later than February 8, 2019.

On February 4, 2019, before ANR filed its testimony and exhibits, Swanton Wind filed a letter withdrawing “its request for an order from the Public Utility Commission for a refund of all or a portion of the Section 248b filing fee paid in support of Swanton Wind’s Section 248 petition.”³ Swanton Wind requests that the Commission close this case because its “withdrawal renders moot all live disputes and controversies on remand and any outstanding motions or unresolved issues in Docket 8816.”⁴

Given that Swanton Wind was the only party in this case that was seeking relief from the Commission in this remand proceeding and given its representation that it is no longer seeking any such relief, I recommend that the Commission close this case without the need for further action.

This Report and Recommendation has not been circulated to the parties pursuant to 3 V.S.A. § 811 because it is not adverse to any party.



John J. Cotter, Esq.
Hearing Officer

² *In re Petition of Swanton Wind LLC*, 2018 VT 141, ¶ 11.

³ Letter from Leslie A. Cadwell, Esq. to Judith Whitney, Clerk of the Commission, dated February 4, 2019.

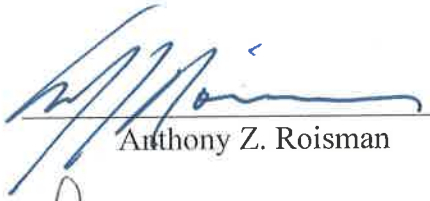
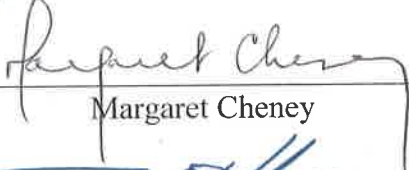

⁴ *Id.*

III. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission (“Commission”) of the State of Vermont that:

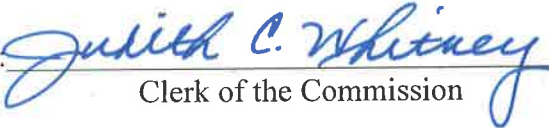
1. The Report and Recommendation of the Hearing Officer is accepted.
2. Case No. 8816 is closed.

Dated at Montpelier, Vermont this 14th day of February, 2019.

)	
Anthony Z. Roisman)	PUBLIC UTILITY
)	
)	
Margaret Cheney)	COMMISSION
)	
)	
Sarah Hofmann)	OF VERMONT

OFFICE OF THE CLERK

Filed: February 14, 2019

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 8816 - SERVICE LIST

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