

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket 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)

Order entered: 12/19/2016

PROCEDURAL ORDER RE: WORKSHOP

I. Introduction and Recommendations

On November 10, 2016, the Vermont Public Service Board (“Board”) issued a Prehearing Conference and Scheduling Order in this proceeding establishing the week of January 2, 2017, as the time for a workshop in this matter. Proposals for the specific date, time, and location of the workshop were to be filed no later than December 12, 2016.¹

On December 5, 2012, the Town of Swanton (“Swanton”) filed its recommendation that the workshop be held the evening of January 3, 2017, at the Missisquoi Valley Union High School Auditorium in Swanton, Vermont. Swanton recommended a start time of 5:00 P.M. and noted that the auditorium was available until 10:00 P.M. Swanton also represented that its recommendations were acceptable to Swanton Wind, LLC (the “Petitioner”), the Vermont Agency of Natural Resources, the Vermont Department of Housing and Community Development, and the Vermont Agency of Agriculture, Food, and Markets (“AAFM”).² In addition, Swanton stated that it had inquiries regarding its recommendation pending with the

1. Docket 8816, Order of 11/10/16 at 3-4 (“November 10th Order”).

2. Attorney Dale Azaria entered an appearance on behalf of the Vermont Division for Historic Preservation (“DHP”), a division within the Department of Housing and Community Development. DHP was granted party status in this proceeding by Order dated November 18, 2016. Swanton also represented that the concurrence of AAFM was obtained through attorney David Englander. However, Attorney Englander appeared at the prehearing conference in this matter on behalf of the Vermont Department of Health. AAFM was represented at the prehearing conference by Attorney Melanie McNeill Kehne.

Vermont Department of Public Service and intervenors Dustin and Christine Lang.³ The Langs' attorney subsequently confirmed that Swanton's proposal was acceptable.

Swanton's recommendation also stated that the town was working with other parties to develop a proposal for a format and agenda for the workshop and that it would file that proposal by the December 12, 2016, deadline. However, as of December 15, 2016, no such proposal had been filed.

On December 12, 2016, Sally and Bruce Collopy, residents of Fairfield who have expressed an interest in intervening in this proceeding, filed their recommendations on the workshop. The Collopys suggested that the workshop be held in a large venue in the Swanton area, and that it be held on either a weekday evening or a weekend day. The Collopys proposed dates in order of preference were January 7, January 4, and January 5. The Collopys also expressed concerns over the Petitioner being allowed to use the majority of the time scheduled for the workshop to make a presentation, with other parties and potential intervenors having little time to be heard. The Collopys also made suggestions regarding the use of microphones and limiting the time for presentations and questions.⁴

II. Discussion

I. Workshop

After considering the recommendations filed by Swanton and the Collopys, we have determined that the workshop will be held on Tuesday, January 3, 2017, commencing at 5:00 P.M., at the Missisquoi Valley Union High School Auditorium located at 175 Thunderbird Drive, Swanton, Vermont. The workshop will be recorded by a court reporter. We have selected January 3rd because it appears that Swanton has obtained the consensus of at least five other parties to this proceeding regarding that date, time, and location. The auditorium is available until 10 P.M., but participants should keep in mind that this may mean concluding the workshop and departing slightly before that time so that the school can secure the facilities and its premises after the workshop concludes.

With respect to the agenda and format of the workshop, as we stated in our November 10th Order, "The purpose of the workshop will be to provide non-petitioning parties and potential intervenors an opportunity to ask Swanton Wind questions about the proposed project in order to

3. Swanton Comments at 1-2.

4. Letter from Sally and Bruce Collopy to the Vermont Public Service Board, dated December 12, 2016.

better understand project details in advance of initiating formal discovery or making a decision on whether to seek intervention.”⁵ Accordingly, the workshop is intended to provide an opportunity for parties, potential intervenors, and interested persons to gather information about the proposed project. While this means that the Petitioner will be responding to questions, it is not an opportunity for the Petitioner to engage in advocacy. Rather, the Petitioner is expected to provide factual and informative responses to questions asked by the workshop participants.

The workshop will be coordinated and run by Board staff, and microphones will be available for use.

In the absence of a specific agenda and format proposal, the workshop will proceed as follows:⁶

1. Brief summary presentation describing the proposed project by the Petitioner, 10 minute maximum, unless workshop participants indicate they want to hear more detail.
2. Questions from workshop participants regarding the proposed project and answers from Petitioner. Questions should be geared towards understanding the details of the proposed project and its potential impacts under the criteria of 30 V.S.A. § 248, the statute under which the Board must review the proposal.
3. Questions will proceed under each individual criterion, starting with 30 V.S.A. § 248(b)(1) and continuing in ascending order through each criterion on which a workshop participant has questions. Note that under section 248(b)(5) there are several subcriteria incorporated from Act 250 that will also be subject to questioning in ascending order once questioning reaches criterion 248(b)(5).
4. If there is time remaining after questions to the Petitioner are complete, Board staff will open the floor to questions regarding the intervention process and what it means to act as a party in a contested-case proceeding before the Board.

Workshop participants are encouraged to prepare their questions in advance by reviewing the petition, prefiled testimony, and exhibits filed with the Board by the Petitioner.⁷

Additionally, the criteria under which the Board must review the proposed project, including the subcriteria incorporated from Act 250, can be found beginning at page 13 and

5. Docket 8816, Order of 11/10/16 at 4.

6. In the event the parties are able to agree upon a different agenda and format, they should file it for the Board's consideration as soon as possible.

7. These materials can be found at: <http://psb.vermont.gov/docketsandprojects/electric/8816>.

ending at page 17 in Appendix A of the Board's Citizens' Guide to the Vermont Public Service Board's Section 248 Process.⁸

Participants are advised that the Board's website is undergoing a conversion pursuant to a statewide initiative. The links included in footnotes 7 and 8 will remain operative until midnight on December 28, 2016. Therefore, participants should use the links to access these documents prior to that time because they may not be immediately available through the new website.

Reviewing the applicable criteria in the context of the materials filed by the Petitioner may help workshop participants focus their concerns with respect to those criteria and may assist in developing their questions for the workshop.

As questioning proceeds, participants should keep in mind that because there are time constraints, repetitive questioning should be avoided wherever possible. To the extent that participants can work together to develop questions for joint presentation, it is encouraged. If there are criteria under which no participant has any questions, questioning will immediately proceed to the next criterion.

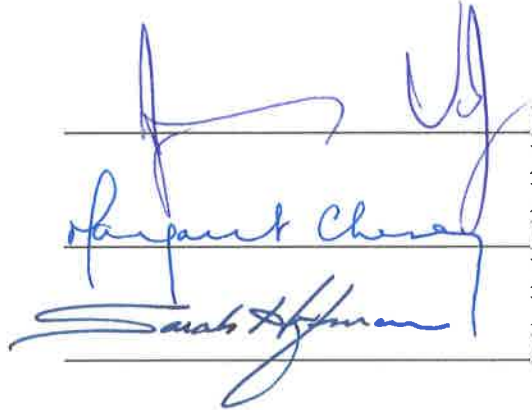
2. Public Hearing

Interested persons and potential intervenors should be aware that there will be a public hearing conducted in this proceeding, currently scheduled to take place the week of July 17, 2017. While the January 3rd workshop is intended to result in an exchange of information among the parties, interested persons, and potential intervenors (and thereby necessarily includes time for the Petitioner to speak) the public hearing presents an opportunity reserved to members of the public to present their concerns, thoughts, and opinions about the proposed project directly to the Board members. This public hearing will occur after several rounds of discovery have been conducted and testimony filed by the parties, but well before the Board conducts the evidentiary hearings in this matter. This will allow members of the public time to better understand the proposal and develop their thoughts and positions so that they may express them to the Board in advance of the evidentiary hearings. Comments at the public hearing, which will be held in the Swanton vicinity and during the evening to allow for a healthy attendance, will be reserved for members of the public who choose to attend and comment.

8. This document can be found at:
<http://psb.vermont.gov/sites/psb/files/publications/Citizens%27%20Guide%20to%20248%20February%2014%202012.pdf>.

SO ORDERED.

Dated at Montpelier, Vermont, this 19th day of December, 2016.



Handwritten signatures of board members in blue ink, including a large signature at the top and two smaller ones below, each with a horizontal line underneath.

PUBLIC SERVICE
BOARD
OF VERMONT

OFFICE OF THE CLERK

FILED: December 19, 2016

ATTEST: Judith C. Whitney
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@vermont.gov)

PSB Docket No. 8816 - Service List

sent 12/19/16 D.B.

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*Motion to intervene pending.

(For Swanton Wind LLC)

DOCKET	✓
FRSIS	
SPRINKLE	
HINDER	✓
STAFF	✓
COMPUTER	✓
WESTLAW	
WHS	✓

(For the Agency of Agriculture, Food & Markets)

(For Town of Swanton Selectboard
and Planning Commission)

(For Christine and Dustin Lang)

(For Vermont Division for
Historic Preservation)

(For City of Burlington Electric Department)

Interested Persons:

✓ James Volz, Margaret Cheney, Sarah Hofmann, Board Members
✓ John Cotter, Esq., Gregg Faber, Mary Jo Krolewski, David Watts (PSB)

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PSB Docket No. 8816 - Adjoining Landowners

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