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VT PUBLIC SERVICE BRD

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January 5, 2017

Judith C. Whitney, Clerk  
Vermont Public Service Board  
112 State Street – Drawer 20  
Montpelier, VT 05620-2701

Re: 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 to be located in Swanton, Vermont, Docket No. 8816

Dear Clerk Whitney:

Enclosed for filing in the above captioned matter, please find the original and six copies of Swanton Selectboard and Planning Commission and Town of Fairfield's Response to Intervenors Christine Lang and Dustin Lang's Objections to Admissibility, and Motion to Exclude Portions of Petitioner's Prefiled Testimony.

Although we have opted to participate electronically, my understanding is that the ePSB system will not be available until after January 16, 2017. In that regard, this matter is not showing up in my ePSB account queue as of yet.

Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

Monaghan Safar Ducham PLLC

Edward G. Adrian

Cc: Service List

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Application of Swanton Wind, LLC )  
for a Certificate of Public Good, ) PSB Docket No. 8816  
pursuant to 30 V.S.A. § 248, for )  
the construction of an up to 20 MW )  
wind-powered electric generation )  
plain to be located in Swanton, Vermont )

**SWANTON SELECTBOARD AND PLANNING COMMISSION AND TOWN OF  
FAIRFIELD'S RESPONSE TO INTERVENORS CHRISTINE LANG AND  
DUSTIN LANG'S OBJECTIONS TO ADMISSIBILITY, AND MOTION TO  
EXCLUDE PORTIONS OF PETITIONER'S PREFILED TESTIMONY**

NOW COMES Edward Adrian, Esq., of Monaghan Safar Ducham PLLC,  
on behalf of the Swanton Selectboard and Planning Commission and the Town  
of Fairfield Selectboard (the Towns) and pursuant to Vermont Public Service  
Board Rule 2.206 hereby responds to the Intervenors' Objections to Admissibility,  
and Motion to Exclude Portions of Petitioner's Prefiled Testimony (the "Motion")  
and further avers as follows:

The Towns join, in their entirety, the positions set forth by the Intervenors  
in their Motion. The Vermont Supreme Court long ago outlined the standards for  
admitting evidence in proceedings before the Board. In Petition of Central  
Vermont Public Service Corp for a 6.23% Increase in Rates, 141 Vt. 284, 293  
(1982) the Court implied that pursuant to the evidentiary standards set forth in  
Vermont's Administrative Procedure Act, 3 V.S.A. § 810, evidence should not be  
admitted if it is non-competent, irrelevant or immaterial. The Intervenors have



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objected to portions of the evidence set forth by the Petitioner as being not competent, irrelevant or immaterial or a combination thereof. The Towns agree with the positions set forth by the Intervenors.

WHEREFORE, the Towns join the Intervenors and respectfully request that the Board EXCLUDE the portions of Petitioner's prefiled testimony as set forth in the Intervenors' Motion of December 19, 2016

Dated this 5<sup>th</sup> day of January, 2017.

Respectfully Submitted,  
SELECTBOARD and  
PLANNING COMMISSION  
TOWN OF SWANTON and  
SELCTBOARD OF FAIRFIELD  
By and through its counsel,



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PUBLIC SERVICE BOARD

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plain to be located in Swanton, Vermont                                    )

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