

**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 )

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VT PUBLIC SERVICE BOARD

**MOTION TO INTERVENE OF  
PATRICIA MESSIER**

I, Patricia Messier, *pro se* under Public Service Board Rule 2.209(A)(3), or alternatively under Board Rule 2.209(B), move to intervene in the above-referenced matter.

As a non-adjointing neighboring property owner, I have substantial, specific, and particularized interests that may be adversely affected by the outcome of this proceeding. This proceeding is the only means by which I can protect my interests, and these interests will not be adequately protected by other parties to this proceeding. My interests are unique to protecting the use and enjoyment of my property and the public areas nearby, and my perspective is sufficiently distinct from that of other parties.

My intervention will not unduly delay proceedings or prejudice the interests of existing parties or of the public.

**Memorandum**

I respectfully move to intervene in this matter based on my substantial, particularized interests in the following issues:

- (i) aesthetics and natural environment, pursuant to 30 V.S.A. § 248(b)(5), and § 10 V.S.A. 6086(a)(8);
- (ii) economic benefit to the State and its residents, § 248(b)(4);

- (iii) orderly development of the region, § 248(b)(1); and
- (iv) health and safety, § 248(b)(5).

The following argument supports my motion to intervene in this matter.

### **I. Legal Standard**

Intervention in proceedings before the Board is governed by Board Rule 2.209. Under Rule 2.209(A), a person upon timely application shall be permitted as of right to intervene in any proceeding:

- (1) when a statute confers an unconditional right to intervene; (2) when a statute confers a conditional right to intervene and the condition or conditions are satisfied; or (3) when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest, and where the applicant's interest is not adequately represented by existing parties.

Under Rule 2.209(B), a person upon timely application may in the discretion of the Board be granted “permissive intervention” in any proceeding when the applicant “demonstrates a substantial interest that may be affected by the outcome of the proceeding.” The Board in exercising its discretion under this rule shall consider:

- (1) whether the applicant's interest will be adequately protected by other parties;
- (2) whether alternative means exist by which the applicant's interest can be protected; and (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

The Board has ruled that, “individual intervenors may bring a perspective sufficiently distinct from those of existing parties to warrant their participation on specific issues.”<sup>1</sup>

For example, the Board has found particularized interest based on the following:

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<sup>1</sup> *Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order of 10/12/12, at 12.

1. habitat and natural resources involving deer and black bear;<sup>2</sup>
2. aesthetics based on proximity to the proposed project;<sup>3</sup> and
3. stewardship, use, and enjoyment of public resources;<sup>4</sup>

In proceedings under 30 V.S.A. § 248, the Board does not consider interests in private property.<sup>5</sup>

## II. Potential Impact of the Project on Patricia Messier's Interests

I move to intervene in this matter based on the following facts and applicable law:

### 1. Aesthetics; Scenic Natural Beauty

I reside at 70 Sholan Road in the Town of Swanton, Vermont. Having been born here on this land, it is indeed very special to me. My very large family settled on this land in 1942, two years before I was born. We were dairy farmers and very happy to be here. This land was sold to a sibling when my parents were no longer able to farm. Farming continued on for many years after that, until his retirement. Then some of the land was sold to a neighboring farm, with the remainder leased to the same farm.

My home is located approximately 0.8 mile west of attractive Rocky Ridge, with Sholan Road running perpendicular and considerably lower than Route 105. Route 105 is basically at the foot of the Ridge. From this location, I have a totally clear view of all the landscape has to offer, just a beautiful view. Even more so during foliage, as you can imagine.

However construction and operation of the Project would affect my enjoyment of the scenic views and the peaceful, natural setting on my property; and likewise the Project would affect surrounding public areas including Fairfield Pond, the Missisquoi Valley Rail Trail, and nearby roads.

As a longstanding resident and farmer, I have a unique interest and perspective on this issue that would not necessarily be represented by other parties, and which may

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<sup>2</sup> *Application of Seneca Mountain Wind, LLC*, Docket No. 7867, Order of 10/12/12, at 2-4, 16-17; *Id.*, Order of 8/9/13, at 6.

<sup>3</sup> *Petition of Barton Solar LLC*, Docket No. 8148, Order of 1/21/14, at 3-4.

<sup>4</sup> *Joint Petition of Green Mountain Power Corporation, Vermont Electric Cooperative, Inc., and Vermont Electric Power Company, Inc.*, Docket No. 7628, Order of 9/3/10, at 12-13.

<sup>5</sup> *Vt. Elec. Power Co. v. Bandel*, 135 Vt. 141, 145 (1977) ("Proceedings under 30 V.S.A. § 248 relate only to the issues of public good, not to the interests of private landowners who are or may be involved.").

be useful to the Board in determining the potential impact of the Project on aesthetics. Therefore, I move to intervene on these issues. 10 V.S.A. § 6086(a)(8) (aesthetics, scenic natural beauty); and 30 V.S.A. § 248(b)(5) (aesthetics, natural environment).

## **2. Economic Benefit; Orderly Development**

Many days are spent in my vegetable and fruit gardens which tend to be very large so I can share this produce with loved ones. This hobby is extremely rewarding in so many ways, not to mention economical and is extremely healthy organic food. That means a lot to me. I have built up my soils over the last 19 years by adding all the rich organic matter I can find. It is unacceptable for me to give this up and to have this great expense added to my budget.

I understand that my interest in my land and private property may not be considered in this case, however the Project would not only affect the value of my land, but rather all the property in the surrounding area thereby affecting the regional and statewide economy.

Also, a major concern in addition to my gardens is my caregiving with developmentally disabled adults, which I have done since 1998 here at my home. I have two special needs adults who live here with me. I find caregiving to be emotionally fulfilling, and I'm considered talented in this field with their behaviors, etc. My work is considered very good.

I worry about the impact of the Project on my people as well as myself. What kind of trouble would this cause on their sleep patterns (and mine). Turbine noise both inside and outside at this close distance would be significant. I have invested a considerable amount of money putting in a track lift system and platform lift, so my people can be safe. It is totally unacceptable to me to be forced to entertain greater challenges than I already have or to be forced to give up my career and livelihood.

The Project is out of character and out of scale with its surroundings, and it appears to be widely unpopular. It likely would interfere with the orderly development of the area, and otherwise affect surrounding property values, employment, and the statewide economy. As a long-time homeowner, farmer, and homecare provider, I have a unique perspective that may be useful to the Board in determining the impact of the Project on development and economics. Therefore I should be allowed to intervene on these issues. § 248(b)(1), and (4) (orderly development, economic benefit to the state).

## **3. Public Health and Safety**

As stated in the previous section, I am concerned that the Project may have an impact on the health of myself and the disabled adults in my care. Particularly, shadow

flicker and noise during the day may cause distraction and emotional distress, and during the nighttime may cause sleeplessness. Such distress and inability to obtain restorative sleep poses a risk to health and safety. Therefore, as no other party would adequately protect these interests within my home, I should be allowed to intervene on this issue. § 248(b)(5) (public health and safety).

My question is, where is the benefit for us (we the people) and this beautiful scenic state?

In my opinion, this Project is, and always has been, a very bad idea.

### **III. Conclusion**

While this Project is purported to advance the public good, it also raises significant concerns over the public interest. Therefore, in order to protect myself, my loved ones, and my neighbors throughout the State, I should be allowed upon the evidence presented herein to intervene in this proceeding.

Respectfully submitted this 16<sup>th</sup> day of February, 2017.

By:



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**CERTIFICATE OF SERVICE**

We, Brian and Penny Dubie, et.al., certify that on February 16, 2017, copies of the foregoing *Notices of Appearance*, and *Motion to Intervenes of Brian and Penny Dubie, Jeanne Royer, Judith and Patrick Luneau, Karen and Leo McLaughlin, Sally and Bruce Collopy, Kaye and Frank B. Mehaffey, Jr., Terrance Smith, David A. Goodrich, Robert Perkins, Patricia Messier, Sarah & Ed Ferguson, Ian and Danielle Garrant, Curtis Swan and Sara Luneau-Swan, Dan and Nancy Dunne, Erynn & Tyrell Boudreau, Dennis Hendy and Diane Bell, Mary and Mark Bushey, Steve Woodward, Kenneth Fox, Michelle and Luc Deslandes, David Butterfield, Bradley Stott and Jennifer Belanger, Clark and Carol Palmer, Paula Pearsall, Greg Pierce and Paula Kane, Mark and Marianne Dubie, Marie and Gil Tremblay, Patricia Rainville and John Smith, Kevin and Dolores Nichols, Jessica Decker and Lance Desautels, Suzanne Seymour, Mary Hunter, Todd Poirier* in the above-referenced matter, were served via First-Class U.S. Mail on the interested persons designated in the following Service List.

Respectfully submitted this 16<sup>th</sup> day of February, 2017.

By:



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