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February 28, 2008

Mrs. Susan M. Hudson, Clerk
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, VT 05620-2701

Re: Southern Loop Project
Public Service Board Docket No. 7373; Response to the Ferenbachs Regarding Motion in
Limine

Dear Mrs. Hudson:

This letter briefly responds to Carl and Judy Ferenbach's letter of February 21, 2008.

The Ferenbachs' contention that a single conservation easement over a single parcel somehow "constitutes evidence of the public interest" cannot be squared with the fundamental principle that private property interests are outside of the scope of the Board's review under Section 248. *Vt. Elec. Power Co. v. Bandel*, 135 Vt. 141, 145, 375 A.2d 975 (1977) ("This Court considers it settled law that proceedings under 30 V.S.A. § 248 relate only to the issue of public good, not the interests of private landowners who are or may be involved."); *see also Procedural Order Re Schedule and Motions to Intervene*, Docket No. 7032, Order of 2/2/2005 at 2 (denying landowner intervention where "[t]he issue of impact of the proposed project on individual property values does not fall within the criteria of Section 248"). Moreover, *In re: Vermont Public Power Supply Authority ("VPPSA")*, 140 Vt. 424, 440 A.2d 140 (1981) recognized that the "public interest" is the product of a "cumulation of private interests." Accordingly, a single conservation easement cannot amount to a "cumulation" of any plural interests. It is, by itself, simply an ordinary *private property interest* that is not subject to the Board's jurisdiction under Section 248. *See Bandel, supra*.

Petitioners also respectfully note that the Ferenbachs' numerous responses to Petitioners' Motion in Limine, on their own behalf and in support of VLT, underscore the need for the Board to require that the Ferenbachs and VLT confer and work together in developing discovery requests and other filings.

I have been authorized by Morris L. Silver, counsel for Central Vermont Public Service Corporation ("CVPS"), to represent that CVPS joins in this response.

Thank you for your attention to this matter.

Very truly yours,

Megan Ludwig/TSD
Megan R. Ludwig

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PSB Docket No. 7373 – SERVICE LIST

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