

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Docket No. 8604

Joint Petition of Vermont Transco LLC, and )  
Vermont Electric Power Company, Inc., for )  
a certificate of public good, pursuant to )  
30 V.S.A. § 248, authorizing the )  
construction of the PV20 Cable )  
Replacement Project from the New York )  
border to the Town of Grand Isle, Vermont )

Order entered: 8/5/2016

**ORDER RE MOTION TO AMEND ORDER  
AND CERTIFICATE OF PUBLIC GOOD (“CPG”)**

This case involves a petition filed by Vermont Transco LLC and Vermont Electric Power Company, Inc. (“VELCO” or “Petitioners”), requesting a CPG pursuant to 30 V.S.A. § 248 from the Vermont Public Service Board (“Board”) to authorize the construction and operation of the PV20 Cable Replacement Project consisting of: (1) the replacement of submarine transmission line and termination and control equipment; (2) the installation of connecting line structures; and (3) the removal of the former submarine transmission line, termination structures, and connecting line structures, all located within the town of Grand Isle, Vermont (the “PV20 Project”).

In today’s Order, we grant the Petitioners’ motion to amend our Order and issue an Amended CPG.

**I. BACKGROUND**

On September 9, 2015, VELCO filed a petition, testimony, and exhibits requesting a CPG pursuant to 30 V.S.A. § 248 for the construction and operation of the PV20 Project.

On June 29, 2016, the Board approved the PV20 Project (“June 29 Order”) and issued a CPG.

On July 15, 2016, VELCO filed a motion to amend (“Motion”) the June 29 Order.

On July 26, 2016, the Vermont Department of Public Service (“Department”) filed a comment on VELCO’s request.

On July 29, 2016, the Vermont Agency of Natural Resources (“ANR”) filed comments that did not oppose VELCO’s request to the Board, so long as VELCO maintains compliance with all of the ANR issued permits and the terms and conditions of the stipulation and memorandum of understanding between VELCO and ANR in this docket.

No other filings were made with the Board.

## **II. DISCUSSION AND ORDER**

### **Legal Standard**

Pursuant to the Vermont Rules of Civil Procedure Rule 59 and Board Rule 2.103, a party may move the Board to alter or amend an order that the Board has issued. The Vermont Supreme Court has found that the Board enjoys broad discretion under V.R.C.P. Rule 59(e) to alter or amend its judgments and to reconsider issues that were previously before it.<sup>1</sup>

### **VELCO Motion**

VELCO has moved the Board to amend that part of the June 29 Order that limits VELCO’s construction of the PV20 Project to the hours of 7:00 A.M. to 7:00 P.M. Monday through Friday and 8:00 A.M. to 5:00 P.M. on Saturday.<sup>2</sup> Specifically, VELCO asks the Board to amend ordering clause number 5 and CPG condition number 3 as set forth below (new text appears underlined):

VELCO shall restrict construction activities and related deliveries, except during required outages or as required by other permits, to the hours of between 7:00 A.M. and 7:00 P.M. Monday through Friday and between 8:00 A.M. and 5:00 P.M. on Saturdays, and shall cease construction activities on Sundays and state and federal holidays. VELCO may extend its construction hours up to 24 hours per day seven days per week as follows: (i) on Lake Champlain to safely and quickly complete a cable installation or removal run; or (ii) horizontal directional

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1. *In re Joint Petition of Green Mountain Power Corp.*, 2012 VT 89, ¶¶ 51-52.

2. Motion at 1.

drilling operations that require extended hours in order to complete the operation safely and as quickly as possible.<sup>3</sup>

VELCO represents that extending the hours of operation for certain activities went uncontested during the proceeding and that extended hours of operation for certain activities are material to VELCO's ability to complete the PV20 Project safely, on time, and within budget. Further, VELCO states that its prefiled evidence included a request for flexibility that would allow the continuation or scheduling of certain critical activities, such as horizontal directional drilling, submarine cable installation and removal, and scheduled transmission outages, outside of the Board's traditional hours of allowed construction, but that this request was not addressed by the Board in its June 29, 2016, Order.<sup>4</sup>

#### Department Comments

The Department supports VELCO's request, provided that:

VELCO delivers written notice to the project abutters at least 24 hours prior to extending the construction hours. The notice should include the reason for the construction hour extension; the anticipated duration of the construction hour extension (hours/days as appropriate); and the telephone number and email address for the appropriate contact person at VELCO that can address any concerns.<sup>5</sup>

The Department represents that VELCO has agreed to this proposed condition.

#### ANR Comments

ANR does not oppose the granting of VELCO's Motion so long as, when extending its hours of construction, VELCO maintains compliance with all of ANR's issued permits and the terms and conditions of the stipulation and memorandum of understanding between VELCO and ANR in this docket.

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3. Motion at 1-2.

4. *Id.* at 2-3.

5. Letter from Sheila Grace, Esq., Judith Whitney, Clerk of the Board, filed July 26, 2016.

### Discussion & Order

Having considered VELCO's request and the Department's and ANR's comments, we find good cause to amend our June 29 Order and its associated CPG. VELCO has provided reasonable grounds for its current request that were overlooked during our initial review of the Project. Furthermore, we have in the past allowed exceptions to our traditional hours of allowed construction, particularly for projects employing horizontal directional drilling.<sup>6</sup> Accordingly, we amend the June 29 Order and its accompanying CPG to include the following underlined language, which contains both VELCO's and the Department's proposed changes, as well as language intended to address ANR's concerns:

VELCO shall restrict construction activities and related deliveries, except during required outages or as required by other permits, to the hours of between 7:00 A.M. and 7:00 P.M. Monday through Friday and between 8:00 A.M. and 5:00 P.M. on Saturdays, and shall cease construction activities on Sundays and state and federal holidays. VELCO may extend its construction hours up to 24 hours per day seven days per week as follows: (i) on Lake Champlain to safely and quickly complete a cable installation or removal run; or (ii) horizontal directional drilling operations that require extended hours in order to complete the operation safely and as quickly as possible.

VELCO shall deliver written notice to project abutters at least 24 hours prior to extending the construction hours. The notice shall include the reason for the construction hour extension; the anticipated duration of the construction hour extension (hours/days as appropriate); and the telephone number and email address for the appropriate contact person at VELCO that can address any concerns.

When extending its hours of construction, VELCO shall maintain compliance with all of the Vermont Agency of Natural Resources ("ANR") issued permits and the terms and conditions of the stipulation and memorandum of understanding between VELCO and ANR in this docket.

**SO ORDERED.**

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6. See, *In re Champlain VT, LLC d/b/a TDI New England*, Docket No. 8400, Order of 1/5/2016, at 18.

Dated at Montpelier, Vermont, this 5<sup>th</sup> day of August, 2016.

s/James Volz )

) PUBLIC SERVICE

s/Margaret Cheney )

) BOARD

s/Sarah Hofmann )

) OF VERMONT

OFFICE OF THE CLERK

FILED: August 5, 2016

ATTEST: s/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)*

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