

August 26, 2002. Notice of the filing, with a request for comments on or before August 26, 2002, was also published in the *Burlington Free Press* on July 29 and August 5, 2002.

The ANR filed comments with the Board on August 22, 2002. In its filing, the ANR does not oppose the proposed project and does not request a hearing. The ANR states that it does not believe that the petition submitted by VEC raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248(b)(5).

The DPS filed a Determination letter under 30 V.S.A. § 202(f) on August 27, 2002. No other comments were received from any other parties or interested persons.

The Board has reviewed the petition and accompanying documents and agrees that, pursuant to 30 V.S.A. § 248(j), a CPG should be issued without the notice and hearings otherwise required by 30 V.S.A. § 248.

II. FINDINGS

Based upon the petition and accompanying documents, the Board hereby makes the following findings in this matter.

1. VEC is a corporation duly organized under the laws of the State of Vermont and is engaged primarily in distributing and selling electricity in 66 cities, towns and villages in the Counties of Addison, Bennington, Chittenden, Franklin, Lamoille, Orleans, Windham and Windsor, in the State of Vermont. VEC's principal place of business is 182 School Street, Johnson, Vermont. VEC is subject to the Vermont Public Service Board's jurisdiction pursuant to Section 203 of Title 30. Pet. at 1.

2. VEC owns and operates a 34.5/12.2/7.2 kV distribution substation on Pond Road in Hinesburg, Vermont. The substation serves VEC's members in the towns of Hinesburg, Huntington, Williston and Richmond. Those members are served by radial feedlines emanating from the substation. All power leaves the substation at 7.2 kV and is consumed entirely by members located within the geographic area identified above. The facility was issued a CPG under 30 V.S.A. § 248 in PSB Docket No. 3724, dated September 18, 1973. Hallquist pf. at 2-4.

3. The project was required in July 1999 when one of three 34.5/12.5/7.2 kV transformers in the substation failed. Id. at 4.

4. The transformer was replaced initially by a temporary transformer from VEC's inventory while the set of three replacement transformers was placed on order. Similar to the originals, the voltage for the replacement transformers was 34.5/12.5/7.2 kV. The original transformers were rated at 1250 kVA and the replacement transformers were rated at 2500 kVA. In the thirty years since the transformers were first installed, the area served by the substation has been the fastest growing area in VEC's service territory. As a result, the substation's transformers had been running at 95% of full load. Because new transformers are purchased for a useful life of thirty years and the growth within the area appears likely to continue, VEC decided to order replacement transformers rated at 2500 kVA. The three transformers were replaced in October, 2000, and VEC used the opportunity to effect certain other related minor repairs to the substation identified on Attachment B to Mr. Hallquist's Prefiled Testimony. No changes were made to the footprint of the facility or outside the fence of the facility. No construction or clearing was necessary. Id.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

5. The project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This finding is supported by findings 6 through 8, below.

6. The project involved the replacement of existing facilities for the purpose of increasing system safety and reliability. It does not materially impact existing or potential land uses in the region. The Hinesburg Town Plan does not contain any recommendations contrary to the proposal. Hallquist pf. at 7.

7. The project does not impact areas of natural or cultural significance. Id. at 13.

8. The project does not impact any land conservation measures included in the Hinesburg Town Plan. Id. at 7.

Need For Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

9. The project is required to meet the need for present and future demand for service which could not otherwise be provided in a more cost effective manner through energy conservation programs and measures and energy efficiency and load management measures. Id. at 5-6.

10. Because one of the transformers had failed, it became necessary to replace all three of the transformers. The prior transformers were running at about 95% of capacity which has an impact on the useful life of the transformers. The new transformers with the higher kVA rating run cooler, thereby increasing reliability and allowing for the continued growth in area. The new transformers also provide future back up for the Williston transformers. Id. at 6.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

11. The project will not adversely affect system stability and will ensure greater reliability. Id. at 5; findings 4 and 10, above.

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

12. The total construction cost for the project was approximately \$136,000, of which approximately \$100,000 was for the transformers. Hallquist pf. at 4-5.

13. The project benefits the Company's customers because it will ensure system reliability and stability. Id. at 5-6.

Aesthetics, Historic Sites, Air and

Water Purity, the Natural Environment and Public

Health and Safety

[30 V.S.A. § 248(b)(5)]

14. The project does not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and the public health and safety. This finding is supported by findings 15 through 39, below, which are based on the criteria specified in 10 V.S.A. §§1424a(d) and 6086(a)(1) through (8), 8(A) and (9)(K).

Outstanding Resource Waters

[10 V.S.A. § 1424a(d)]

15. The project does not affect any Outstanding Resource Waters of the state as identified by the Water Resources Board. Hallquist pf. at 7.

16. There are no Class I Wetlands involved with this project. There are Class II Wetlands adjacent to the project, including palustrine, broad-leafed, scrub/shrub and forested, non-tidal saturated semi-permanent seasonal wetlands. The existing substation is "grandfathered" under Vermont Wetland Rules 1.1(2) because all local, state and federal permits related to the regulation of land were obtained and construction completed prior to February 23, 1990. This project is an Allowed Use under Vermont Wetland Rules 6.2(I) because it was both an emergency repair and did not involve substantial expansion or modification of facilities in existence as of February 23, 1990. Id. at 10.

17. There are no streams involved with this project. Id. at 9.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

18. The project did not, and will not, result in undue water or air pollution. This finding is supported by findings 19 through 26, below.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

19. The project is not located in headwaters areas. It meets any applicable health or environmental conservation regulations regarding reduction of the quality of ground or surface waters because of minimal amount of construction and clearing involved. Hallquist pf. at 6.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

20. The project meets any applicable health and environmental conservation regulations regarding the disposal of wastes, and does not involve the injection of waste materials or any harmful toxic substances into ground water or wells. There was no disposal of any waste material into surface or groundwater. Any construction debris was disposed of at a state approved landfill. Id. at 8, 9.

21. There is no oil containment system for the transformers at this substation. Installation of an oil containment system at this time is neither practical nor economic as it would require the rebuilding of the entire substation to accommodate such a system, it would require the construction of a temporary substation to be used during installation of the containment system, the extra cost would exceed \$200,000, and the environmental impact of the reconstruction would have to be weighed against the risk of an oil leak from the transformers. Abendroth pf. at 2-4.

Water Conservation

[10 V.S.A. § 6086(a)(1)(C)]

22. The project does not require the use of water. Hallquist pf. at 9.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

23. The project is not located in a floodway. Id.

Streams

[10 V.S.A. § 6086(a)(1)(E)]

24. No streams have been impacted by the project. Id.

Shorelines

[10 V.S.A. § 6086(a)(1)(F)]

25. The project is not located on a shoreline. Id.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

26. As stated in finding 16 above, there are no Class I Wetlands associated with this project. There are Class II Wetlands adjacent to the project, including palustrine, broad-leafed, scrub/shrub and forested, non-tidal saturated semi-permanent seasonal wetlands. The existing substation is "grandfathered" under Vermont Wetland Rules 1.1(2) because all local, state and federal permits related to the regulation of land were obtained and construction completed prior to February 23, 1990. This project is an Allowed Use under Vermont Wetland Rules 6.2(1) because it was both an emergency repair and did not involve substantial expansion or modification of facilities in existence as of February 23, 1990. Id. at 10.

Air Pollution

[10 V.S.A. § 6086(a)(1)]

27. The project has not resulted in unreasonable air pollution because the repairs did not involve industrial/manufacturing emissions, excessive dust and smoke during construction, dust or noise from blasting, odors or excessive noise from construction activity, or processing or storage of radioactive materials, and therefore did not, and will not, cause undue air pollution. Earth disturbance was minimized, and there was no need to spray water to reduce dust. No burning took place. Id. at 8.

Sufficiency of Water And Burden on

Existing Water Supply

[10 V.S.A. § 6086(a)(2)(3)]

28. The project does not require the use of water and does not place a burden on any existing water supply. Id. at 9-10.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

29. The project did not, and will not, result in unreasonable soil erosion or reduction in the ability of the land to hold water. The repairs created minimal soil disturbance; they were limited to replacement of existing facilities and did not materially affect root systems of the surrounding vegetation. Low growing vegetation was retained, and no clearing has taken place. Id. at 10-11.

Traffic

[10 V.S.A. § 6086(a)(5)]

30. The project did not, and will not, cause unreasonable congestion or unsafe conditions with respect to transportation systems. Id. at 8.

Educational Services

[10 V.S.A. § 6086(a)(6)]

31. The project does not have an impact on the ability of the involved municipality to provide educational services. Id.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

32. The project has no impact on the ability of any involved municipalities to provide municipal services. Id.

Aesthetics, Historic Sites or Rare

And Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

33. The project does not have an undue adverse effect on the scenic or natural beauty, aesthetics, historic sites or rare and irreplaceable natural areas. This finding is supported by findings 34 through 37, below.

34. The project does not adversely affected any views, as the substation looks essentially the same as it did before installation of the new transformers. Hallquist pf. at 12.

35. There was no clearing necessary to accommodate the project. Id.

36. Based on the above, the facilities generally fit within the context of the area in which it exists, and it does not adversely affect the Town of Hinesburg. Id. at 12-13.

37. There are no known historic sites nor rare or irreplaceable areas impacted by this project. Id. at 13.

Discussion

_____Based on the above findings, the Board finds that this project does not have an undue adverse effect on the aesthetics or scenic and natural beauty of the area. In reaching this conclusion, the Board has relied on the Environmental Board's methodology for determination of "undue" adverse effects on aesthetics and scenic and natural beauty as outlined in the so-called Quechee Lakes decision. *Quechee Lakes Corporation*, #3W04 1 1-EB and 3W0439-EB, dated January 13, 1986.

As required by this decision, it is first appropriate to determine if the impact of the project will be adverse. The project would have an adverse impact on the aesthetics of the area if its design is out of context or not in harmony with the area in which it is located. If it is found that the impact would be adverse, it is then necessary to determine that such an impact would be "undue." Such a finding would be required if the project violates a clear written community

standard intended to preserve the aesthetics or scenic beauty of the area, if it would offend the sensibilities of the average person, or if generally available mitigating steps will not be taken to improve the harmony of the project with its surroundings. The Board's assessment of whether a particular project will have an "undue" adverse effect based on these three standards will be significantly informed by the overall societal benefits of the project.¹

Given the facts of this case, it would be difficult to find that this project has had an adverse effect on the aesthetics of the area because the project simply replaced existing facilities in a way that is nearly unnoticeable. The substation looks essentially the same as it did prior to the installation of the new transformers.

**Necessary Wildlife Habitat and
Endangered Species**

[10 V.S.A. § 6086(a)(8)(A)]

38. The project does not impact any necessary wildlife habitat or known endangered species sites. Id.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

39. The project does not unnecessarily or unreasonably endanger the public or quasi-public investments in any governmental public utility facilities, services, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of or access to such facilities, services, or lands. Id. at 12-13.

Consistency with Resource Selection

Least Cost Integrated Resource Plan

[30 V.S.A. § 248(b)(6)]

40. VEC does not have an approved least cost integrated plan. Board "Closing Order," dated June 14, 2000, Docket No. 6217.

1. Consider, for example, reduction in need for power plant or transmission investments, or other social costs.

Compliance With Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

41. The project is consistent with the Vermont 20-Year Electric Plan. The DPS has determined, in a letter dated August 27, 2002, that the project is consistent with the Vermont 20-Year Electric Plan in accordance with 30 V.S.A. § 202(f). DPS Section 202(f) Determination, dated July 16, 2002.

Outstanding Water Resources

[30 V.S.A. § 248(b)(8)]

42. The project is not located on or near any "Outstanding Water Resource" as designated by the State of Vermont Water Resources Board. Hallquist pf. at 13; findings 15-17, above.

Existing Transmission Facilities

[30 V.S.A. § 248(b)(10)]

43. The project can be served economically by existing transmission facilities without undue adverse effect on Vermont utilities or customers. Hallquist pf. at 6.

III. CONCLUSION

Based upon all of the above evidence, the construction was of limited size and scope; the petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248; the public interest is satisfied by the procedures authorized in 30 V.S.A. § 248(j); and the project promotes the general good of the state.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the repair and replacement of transformers and other minor equipment at VEC's substation in Hinesburg, Vermont, in accordance with the evidence and plans submitted in this proceeding, promotes the general good of the State of Vermont in accordance with 30 V.S.A. § 248, and a certificate of public good to that effect shall be issued in this matter.

Dated at Montpelier, Vermont, this 12th day of September, 2002.

_____)	PUBLIC SERVICE BOARD OF VERMONT
)	
)	
<u>s/David C. Coen</u>)	
)	
)	
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 12, 2002

ATTEST: s/Susan M. Hudson

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: Clerk@psb.state.vt.us)

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.