

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7165

Petition of Central Vermont Public Service)
Corporation Pursuant to 30 V.S.A. § 248(j) for A)
Certificate of Public Good Authorizing Relocation of)
Approximately 1,000 Feet of the North St. Albans –)
Welden Street Transmission Line in St. Albans)
Town, Vermont)

Order entered: 5/19/2006

I. INTRODUCTION

This case involves a petition filed by Central Vermont Public Service Corporation ("CVPS") on March 1, 2006, requesting a certificate of public good under 30 V.S.A. § 248(j) to relocate approximately 1,000 feet of transmission line in St. Albans Town, Vermont. CVPS submitted prefiled testimony, proposed findings, and a proposed order pursuant to the requirements of 30 V.S.A. § 248(j).

Notice of the filing in this Docket was sent on April 10, 2006, to all entities specified in 30 V.S.A. § 248(a)(4)(c) and all other interested parties. The notice stated that any party wishing to submit comments as to whether the petition raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 needed to file comments with the Board on or before May 10, 2006. A similar notice of the filing was published in the *St. Albans Messenger* on April 12 and April 19, 2006.

The Public Service Board ("Board") notified all interested parties on March 16, 2006, that it had determined that the CVPS petition was deficient because it did not address the individual criteria of 10 V.S.A. §1424a(d), as required by draft Board rule 5.400. In order for the petition to be processed, CVPS was asked to provide additional prefiled testimony that addressed the §1424a(d) criteria.

On March 23, 2006, the Public Service Board issued a memorandum notifying all interested parties (including CVPS) that it would institute an interim process for addressing these

criteria until draft rule 5.400 is finalized. In the interim, the Board determined that it would not require petitioners to address the individual criteria of §1424a(d), for each water body potentially affected by a proposed project, until the Board provides further guidance on this issue. The Board's memorandum advised that, during this period, petitioners should address the fourteen criteria if the proposed project has the potential to impact a body of water that has been designated as an outstanding resource water, or if the Agency of Natural Resources ("ANR") or the Department of Public Service ("DPS") determined that a proposed project has the potential to impact a highly significant body of water such that the petition should address one or more of the §1424a(d) criteria in a specific instance. This project, as further discussed below, will not impact an outstanding resource water, and no party has raised any issue with regard to any impact the project would have on any water body. Thus there is no need to address the individual criteria of §1424a(d).

On May 10, 2006, the DPS filed a letter stating that the proposed project does not raise any issues under the substantive criteria of 30 V.S.A. § 248(b). No other comments were filed.

II. FINDINGS

1. CVPS is a duly organized public service corporation with a principal place of business at 77 Grove Street, Rutland, Vermont. Petition at 1.

2. The proposed project involves the relocation of approximately 1,000 feet of CVPS's North St. Albans-Welden Street 46 kV Line, from pole 43 to pole 46, in St. Albans, Vermont. The proposed project will involve the replacement of four structures, two of which would be relocated approximately 150 feet to the east. The four existing structures affected by the relocation range in height from 45-65 feet. The project would involve the placement of two 45-foot structures and two 70-foot structures. Watts pf. at 1; exh. DGW#1.

3. The proposed project was requested by the underlying landowner, Jolly Associates, who wishes to move the line to the rear of the affected lots, closer to the borders of its property so that it may better utilize the land. The location is the "Wagon Wheel" property adjacent to VT Route 104 and Exit 19 of Interstate 89. Watts pf. at 1.

4. A similar relocation was undertaken in 1994 on the properties immediately south of the project, also at landowner request, which left a slight jog in the line. CVPS pursued the current proposal at that time but the previous landowner did not grant permission to continue the relocation across the Wagon Wheel property. Watts pf. at 1.

Orderly Development of the Region

[30 V.S.A. § 248(b)(1)]

5. The proposed 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 the affected municipality. This finding is supported by findings 6 through 9, below.

6. The project involves relocating approximately 1,000 feet of an existing transmission line. Upton pf. at 1.

7. The project will not impact any land conservation measures included in the St. Albans Town Plan. The project involves moving two existing transmission structures from the middle to the back portion of the affected lots, in a narrow strip of land between Vermont Route 104 and Interstate 89. Upton pf. at 1.

8. Presently there is a jog in the line, caused by a previous relocation. The project will remove this angle, so that the line runs consistently along the back edge of the lots south of the Interstate interchange. Upton pf. at 6.

9. The St. Albans Town Planning Commission, the St. Albans Town Selectboard, and the Northwest Regional Planning Commission were provided with a description of the project. They did not recommend changes to the project as proposed. Upton pf. at 2.

Need for Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

10. The proposed project is required to meet the need for present and future demand for service which could not otherwise be more cost effectively provided through energy conservation

programs and measures and energy efficiency and load management measures. The proposed project consists of the relocation of a short section of existing transmission line, at landowner request, to move the existing transmission line closer to the border of its property to allow more complete use of the property. Watts pf. at 1; Upton pf. at 2.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

11. The short length of the relocation will not have an effect on system stability or reliability. Watts pf. at 2.

Economic Benefit to the State

[30 V.S.A. § 248(b)(4)]

12. The proposed project will provide an economic benefit to the state. This finding is supported by findings 13 through 14, below.

13. The total construction cost for the proposed project is estimated at \$65,500, which will be borne by the requesting landowner. Watts pf. at 1.

14. The proposed project will allow for greater use of the commercial lots. Watts pf. at 1.

**Aesthetics, Historic Sites, Air and Water Purity,
the Natural Environment and Public Health and Safety**

[30 V.S.A. § 248(b)(5)]

15. The modifications as proposed will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment and public health and safety. This finding is supported by findings 16 through 31 below, which are the criteria specified in 10 V.S.A. §§ 1424(a)(d) and 6086(a)(1)-(8)(a) and (9)(k).

Outstanding Resource Waters

[10 V.S.A. § 1424(a)(d)]

16. The project is not located on or near any outstanding resource waters. Upton pf. at 8.

Water and Air Pollution

[10 V.S.A. § 6086(a)(1)]

17. The proposed project will not result in unreasonable air pollution. Construction will take place during daylight hours and no tree clearing will be necessary. Upton pf. at 3.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

18. The project is not located in a headwaters area. Upton pf. at 3.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

19. The project will meet any applicable health and environmental conservation department regulations regarding the disposal of wastes. There will be no disposal of any waste material into surface or ground water. Unused and retired materials will be reused, recycled, or disposed of in accordance with the rules of the Vermont Waste Management Division. Upton pf. at 3.

Water Conservation

[10 V.S.A. § 6086(a)(1)(C)]

20. The proposed project will not require the use of water. Upton pf. at 3.

Floodways, Streams, and Shorelines

[10 V.S.A. §§ 6086(a)(1)(D)(E) & (F)]

21. The proposed project is not located on or adjacent to any floodways, streams, or shorelines. Upton pf. at 3-4.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

22. There are no Class I or Class II wetlands near the proposed project. Upton pf. at 4; exh. TOU-1.

Sufficiency of Water and Burden on Existing Water Supply

[10 V.S.A. §§ 6086(a)(2) & (3)]

23. The project will not require the use of water and will not place a burden on any existing water supply. Upton pf. at 4.

Soil Erosion

[10 V.S.A. § 6086(a)(4)]

24. The project as designed will not result in unreasonable soil erosion or reduce the ability of the land to hold water. The project involves the replacement of existing poles. Earth disturbance will be limited to the immediate areas of new pole locations. Upton pf. at 4.

Transportation Systems

[10 V.S.A. § 6086(a)(5)]

25. The proposed project will not cause unreasonable congestion or unsafe conditions with respect to transportation systems. No work will be done in the right of way of Interstate 89 without the approval of the Vermont Agency of Transportation. Upton pf. at 5.

Educational Services

[10 V.S.A. § 6086(a)(6)]

26. The proposed project will not cause an unreasonable burden on the ability of St. Albans Town to provide education. Upton pf. at 6-7.

Municipal Services

[10 V.S.A. § 6086(a)(7)]

27. The proposed project will not cause an unreasonable burden on the ability of St. Albans Town to provide municipal services. Upton pf. at 6-7.

**Aesthetics, Historic Sites
and Rare and Irreplaceable Natural Areas**

[10 V.S.A. § 6086(a)(8)]

28. The proposed project will 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 29 through 31, below.

29. Two existing poles will be relocated from the center to the rear of a commercial lot. Watts pf. at 1; exh. DGW#1.

30. The appearance of the line will be virtually unchanged, except that a longer road crossing will require the use of slightly taller structures on either side of the interchange. Existing pole heights range from 45 to 65 feet; the new pole heights will range from 45 to 70 feet. Upton pf. at 6; exh. TOU-1.

31. There are no known rare or irreplaceable areas or historic sites in the area of the proposed project. Upton pf. at 6-7; exh. TOU-1.

Discussion

Based on the above findings, the Board finds that the proposed project will 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, #3W0411-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 would 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 standards should be significantly informed by the overall societal benefits of the project.¹

The construction will involve the relocation of two poles by approximately 150 feet, and would bring them into alignment with poles immediately south of the affected properties. The structures would be slightly taller than the existing structures. Consequently, the proposed project would have minimal aesthetic impact.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

32. The area of the proposed project is not and has not been known to contain endangered species or necessary wildlife habitat, and thus there will be no impact by this project to such species or habitat. Upton pf. at 2; exh. TOU-1.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

33. The proposed project will 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 the public's use or enjoyment of or access to such facilities, services, or lands. Upton pf. at 7.

Least-Cost Integrated Resource Plan

[30 V.S.A. § 248(b)(6)]

34. The proposed project is consistent with the principles for resource selection in accordance with CVPS's approved least-cost integrated plan. The project involves the slight relocation of a short section of existing transmission line, at landowner request. Watts pf. at 1-2.

1. Docket 6884, Order of 4/21/04 at 20-21.

Compliance with Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

35. The proposed project is consistent with the 2005 Vermont Electric Plan. The project is a simple relocation of a small portion of an existing line that provides safe and reliable service. Watts pf. at 2.

36. The Department has determined that CVPS's proposed project is consistent with the Vermont Electric Plan. Letter dated May 11, 2006, from Jim Porter to Susan Hudson.

Outstanding Resource Waters

[30 V.S.A. § 248(b)(8)]

37. The project is not located on or near any outstanding resource waters. Upton pf. at 8.

Existing or Planned Transmission Facilities

[30 V.S.A. § 248(b)(10)]

38. The proposed project can be served economically by existing transmission facilities without undue adverse effect on Vermont utilities or customers. Watts pf. at 2.

III. CONCLUSION

Based upon all of the above evidence, we conclude that the proposed construction will be 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 by 30 V.S.A. § 248(j); and the proposed project will promote 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 proposed modifications, in accordance with the evidence and plans presented in this proceeding, will promote the general good of the State of Vermont in accordance with 30 V.S.A. Section 248, and a certificate of public good shall be issued in the

