STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7373

Joint Petition of Vermont Electric Power Company, Inc.,	)
Vermont Transco, LLC, and Central Vermont Public	)
Service Corporation for a certificate of public good,	)
pursuant to 30 V.S.A. Section 248, authorizing the	)
construction of the Southern Loop Transmission	)
Upgrade Project	)

Order entered: 1/10/2007

ORDER RE: FERENBACHS' MOTION TO INTERVENE

On December 18, 2007, Carl Ferenbach, III and Judy W. Ferenbach filed a Motion to Intervene and for Determination of Party Status, along with a supporting memorandum. In their motion, the Ferenbachs assert that they own land in Townshend, Vermont, "across which the Petitioners as the holders of easements propose to take the actions as a result of their petition, namely to clear an additional 100' of the existing easement and to erect thereon an additional row line bearing structures."[1] The Ferenbachs further allege that the Petitioners' proposed actions will affect the following on their property: wetlands, a stream, bodies of water, a trail system, the ecosystem and natural botanical and biological communities, forestry management plans, aesthetics and the natural beauty, rare and irreplaceable natural areas, and Vermont Land Trust restrictions and plans. The Ferenbachs also assert that the Petitioners' proposed activity "will have other general impacts with respect to the Ferenbach lands," and that the impacts listed above "*and such other impacts as may be determined to exist hereafter are material, substantial and unduly adverse* . . . ."[2] The Ferenbachs contend that their interests fall with the scope of 30 V.S.A. §§ 248(b)(1) and (5), and request party status in this proceeding.

On January 3, 2008, Vermont Electric Power Company, Inc. and Vermont Transco, LLC (collectively, "VELCO") and Central Vermont Public Service Corporation ("CVPS" and, with

1. Ferenbachs' Motion to Intervene at 2.

2. Ferenbachs' Motion to Intervene at 3 (emphasis in original).

VELCO, the "Petitioners") filed a response to the Ferenbachs' motion. The Petitioners contend that the Ferenbachs have not established a basis to intervene as of right under Board Rule 2.209(A). The Petitioners acknowledge that the Ferenbachs "may meet the standard for permissive intervention in this proceeding" under Board Rule 2.209(B), but contend that the "principal interests" asserted by the Ferenbachs are being addressed by the Agency of Natural Resources ("ANR").[3] The Petitioners do not oppose permissive intervention being granted to the Ferenbachs, but recommend that if permissive intervention is granted, the "intervention be limited to the specific interests set forth in the Motion as they relate to 30 V.S.A. §§ 248(b)(1) and (5)."[4] The Petitioners further request that, pursuant to Board Rule 2.209(B) and (C), the Ferenbachs' intervention:

> be conditioned upon the Ferenbachs being required to consult and coordinate efforts with ANR, and to comply with Board Rules and orders, including the schedule that will be established for this proceeding, the obligation to respond to the information requests of other parties, and the obligation to provide copies of each filing to all parties.[5]

On January 4, 2008, the Department of Public Service ("Department") filed a letter contending that the Ferenbachs have not demonstrated that their interests are not adequately represented by existing parties, specifically, the Department. The Department further states that it has no objection to the Ferenbachs being granted permissive intervention under Board Rule 2.109(B), and requests that such intervention "be limited to the very specific issues which involve [the Ferenbachs'] property."

On January 7, 2008, the Ferenbachs filed a reply to the Petitioners' Response. The Ferenbachs contend that their motion to intervene was not limited to permissive intervention, but note that they are not primarily concerned with whether their intervention is permissive or as of right. Instead, they state that their principal concern is to avoid limitations on their participation prior to issues having been developed. The Ferenbachs object to the Petitioners' proposed condition that would require coordination with ANR, and oppose a limitation of the issues that

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3. Petitioners' Response at 4.

4. Petitioners' Response at 4–5.

5. Petitioners' Response at 5.

they may address until they have had the opportunity to review "in depth" the impacts on their property.

We grant the Ferenbachs permissive intervention pursuant to Board Rule 2.209(B), limited to the interests that the Ferenbachs specifically identify in their motion to intervene — i.e., impacts to their property with respect to wetlands, a stream, bodies of water, a trail system, the ecosystem and natural botanical and biological communities, forestry management plans, aesthetics and the natural beauty, rare and irreplaceable natural areas, and Vermont Land Trust restrictions and plans — and any other impacts to natural resources on their property that the Ferenbachs discover through further investigation.[6]

We do not, at this time, require the Ferenbachs to coordinate with ANR. We retain the right, under Board Rule 2.209(C), to require coordination with ANR or other parties if warranted by future circumstances. We also do not expressly include the remaining conditions sought by the Petitioners, because those conditions reflect preexisting obligations of *all* parties; to include them as conditions of intervention would be redundant and is, therefore, unnecessary.

SO ORDERED.

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6. Should the Petitioners or any other party believe the Ferenbachs to be taking an excessively expansive view of this allowance to address additional natural resource impacts, that party may file a motion seeking an appropriate limitation.

Dated at Montpelier, Vermont, this 10th day of January, 2008.

s/James Volz	)	
	)	PUBLIC SERVICE
	)	
s/David C. Coen	)	BOARD
	)	
	)	OF VERMONT
s/John D. Burke	)	

OFFICE OF THE CLERK

FILED: January 10, 2008

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: psb.clerk@state.vt.us)