

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6308

Petition of Vermont Electric Power Company,)
Inc. for a certificate of public good pursuant to)
30 V.S.A. § 248 (j) for a minor relocation of a)
transmission line located at Tafts Corners,)
Williston, Vermont)

Order entered: 3/15/2000

I. INTRODUCTION

This case concerns a petition filed by Vermont Electric Power, Company, Inc., ("VELCO") on November 3, 1999, requesting a certificate of public good ("CPG") under 30 V.S.A. § 248(j) to relocate to the east a portion of its transmission line located near Taft Corners, in the Town of Williston, Vermont.

VELCO served the petition, prefiled testimony, proposed findings, a proposed order and prospective CPG on the Public Service Board ("Board") and the parties specified in 30 V.S.A. § 248(a)(4)(C), pursuant to the requirements of 30 V.S.A. § 248(j)(2).

Notice of the filing of this docket was sent on November 23, 1999, to all parties specified in 30 V.S.A. § 248(a)(4)(C) and all other interested persons. 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 should file comments with the Board on or before December 29, 1999.

Notice of the filing, with a request for comments on or before December 29, 1999, was published in the *Burlington Free Press* on December 2 and 9, 1999. No comments were received.

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 its accompanying documents, the Board hereby makes the following findings in this matter.

Introduction

1. VELCO is a company as defined by 30 V.S.A. § 201 and as such is subject to the Board's jurisdiction pursuant to 30 V.S.A. § 203. Pet. at 1.

2. VELCO owns and operates bulk transmission facilities in the State of Vermont, including a transmission line that runs through property owned by Maple Tree Place Associates ("Maple Tree Place") in the Tafts Corners area of Williston, Vermont. Pet. at 4.

Project Description

3. As a result of a collaborative planning effort and in compliance with the Williston Town Plan, Maple Tree Place proposes to build a mixed-use commercial and residential development on the parcel that adjoins routes 2, 2A and Interstate 89. Frank pf. at 2-4.

including the costs of design and this proceeding. Harvey pf. at 4; Wies pf. at 1-2.

8. VELCO has entered into a written agreement ("Agreement") with Maple Tree Place that will provide for prepayment of these proposed project costs. Wies pf. at 1-2; VELCO exh. 17, TNW-1.

9. The Agreement provides that neither VELCO nor the utility ratepayers shall pay any costs of this proposed relocation. "Such costs shall include, without limitation, all costs, including engineering, design, personnel (including normal overhead), legal, administrative, construction, permitting and other costs of any kind attributable to the project." VELCO exh. 17, TNW-1.

10. The Agreement calls for prepayment of estimated expenses prior to the start of each phase of the proposed project. VELCO exh. 17, TNW-1. The Agreement is designed to eliminate the risk that ratepayers will absorb any of the costs associated with the proposed relocation of the line. Wies pf. at 2; VELCO exh. 17, TNW-1.

11. The proposed relocation will be designed to withstand National Electric Safety Code ("NESC") Heavy Loading design loads, relating to ice and wind loading. Clearance will meet or exceed NESC requirements. Harvey pf. at 3.

12. The proposed relocation will involve replacing three existing support structures with five new structures. Harvey pf. at 1.

13. The present structures are wooden H-frames, each with two poles, approximately fourteen feet apart, with pole heights of 55-60 feet. Four of the proposed new structures will be

uniform over the entire surface. The proposed new steel structure will be 65 feet in height. Harvey pf. at 2-3.

Orderly development of the Region

[30 V.S.A. § 248(b)(1)]

16. 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 any affected municipality. This finding is supported by findings 17 through 21 below.

17. The proposed relocation is part of a larger, substantial development known as Maple Tree Place, that has received approvals from the Environmental Board. Frank pf. at 2-6.

18. The proposed project is a very minor relocation of the existing VELCO 115 kv transmission line, located on the same parcel that will serve to accommodate planned development by Maple Tree Place in the Tafts Corners area. Hamlin pf. at 6; Harvey pf. at 1-2, 4-5; Burley pf. at 5. The subject transmission line is an integral part of the existing VELCO transmission system that serves the state of Vermont. Harvey pf. at 4-5.

19. The subject relocation facilitates a substantial, mixed-use development that was the result of a unique community planning process. The proposed development of Maple Tree Place has received an Act 250 permit, and all other necessary state and local permits. The Maple Tree Place development has received the support of the Town of Williston Selectboard,

line to bisect the development, splitting the Maple Tree Place project in two, or resulting in an elongated design that would not be particularly practical or aesthetically desirable. Frank pf. at 6-7.

Need For Present and Future Demand for Service

[30 V.S.A. § 248(b)(2)]

22. The proposed 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. This finding is supported by findings 2 above and 23-24 below.

23. The section of transmission line which is the subject of this proposed project is an integral part of the existing VELCO transmission system that serves the State of Vermont. Harvey pf. at 5.

24. VELCO has studied possible future scenarios that could involve (1) upgrading the voltage to this line, (2) no changes to the existing line, or (3) removing it altogether. Harvey pf. at 4. There have been no developments to date that would clearly indicate any one of these three possibilities, therefore, the appropriate course is to maintain the line in its present transmission configuration. Harvey pf. at 4-5.

System Stability and Reliability

[30 V.S.A. § 248(b)(3)]

creation of an alternate route around Tafts Corners, is consistent with outstanding permits for Maple Tree Place, and will provide for the appropriate use of property as determined by its owners and supported by local and state permitting authorities. Wies pf. at 1-2; Frank pf. at 1-7; Burley pf. at 6.

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

[30 V.S.A. § 248(b)(5)]

28. The project as proposed will 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 29 through 53 below, which are based on the criteria specified in

10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8), and (9)(K).

Outstanding Resource Waters

[10 V.S.A. § 1424a(d)]

29. The proposed relocation will not affect any outstanding resource waters of the state as identified by the Water Resources Board. The proposed relocation takes place within an open field that is not presently used for any purpose. The subject area is not in an aquifer and has no streams or other waters other than three small wetland areas (see findings 38-39). The only

five pole sets, which will be the main impact area. With the exception of one guy wire (see finding 39), all of the proposed construction for the relocation is outside of wetland areas. In addition, the proposed construction will occur within the context of a much larger project, Maple Tree Place, which has obtained all major permits. Hamlin pf. at 6.

Headwaters

[10 V.S.A. § 6086(a)(1)(A)]

32. The proposed relocation will have no effect on headwaters, because none exist within the subject area. Hamlin pf. at 8.

Waste Disposal

[10 V.S.A. § 6086(a)(1)(B)]

33. The proposed relocation will have no effect on waste disposal. Hamlin pf. at 8.

Water Conservation

[10 V.S.A. § 6086(a)(1)(C)]

34. The proposed project will have no effect on water conservation, as it will use no water and there are no water supplies or water conservation areas within the subject area or affected by the subject relocation. Hamlin pf. at 6-7.

Floodways

[10 V.S.A. § 6086(a)(1)(D)]

[10 V.S.A. § 6086(a)(1)(F)]

37. There are no shorelines within the proposed project area. Hamlin pf. at 8.

Wetlands

[10 V.S.A. § 6086(a)(1)(G)]

38. The Maple Tree Place property has three small wetland areas and is subject to Army Corps of Engineers ("Army Corps") permit number 199500219, as amended October 15, 1998. The first wetland area is not in the VELCO right-of-way. The second wetland area has an existing VELCO structure, that will not be altered in any way, at its southerly edge. Hamlin pf. at 4-5.

39. The third small wetland area adjoins Route 2, on the northerly boundary of the Maple Tree Place property. The only contemplated construction by VELCO in this area is the addition of a guy wire to the existing structure. This is permissible under the Army Corps permit, and will have no significant effect on this wetland area. Hamlin pf. at 4-5.

Sufficiency of Water And Burden on

Existing Water Supply

[10 V.S.A. § 6086(a)(2)(3)]

40. The proposed project will not use any water and will have no effect on any existing water supply, as there are none. Hamlin pf. at 6-8.

Soil Erosion

42. Other than the arrival of construction equipment for the proposed relocation project, there will be no effect on traffic. Hamlin pf. at 6-8.

Educational Services

[10 V.S.A. § 6086(a)(6)]

43. The proposed project will have no effect on the ability of the municipality to provide educational services. Hamlin pf. at 8.

Municipal Services

[10 V.S.A. § 6086(A)(7)]

44. The proposed project will have no effect on the ability of the municipality to provide municipal services. Hamlin pf. at 8.

Aesthetics, Historic Sites or Rare

And Irreplaceable Natural Areas

[10 V.S.A. § 6086(a)(8)]

45. The project as proposed 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 46 through 47 below.

46. Due to the substantial development of the subject property, involving 324,000 square feet of retail and commercial space, fifty units of residential housing, streets, parking lots, street lighting and other facilities, the project will have an adverse effect on the scenic or natural beauty, aesthetics, historic sites or rare and irreplaceable natural areas.

47. The one proposed steel transmission structure is the same basic design as the wood towers and has a cleaner appearance with fewer cross members. While steel is not a natural material, the structure weathers to a brown color that will recede visually. Burley pf. at 9; Harvey pf. at 2.

48. The Army Corps of Engineers permit 199500219, as amended October 15, 1998, included a requirement for a detailed archeological review of the site. The archeological review was conducted and included diggings on the site. There are no areas of archeological sensitivity in the existing or proposed VELCO right of way and none will be affected by this proposed project. Hamlin pf. at 4-5; exh. VELCO 11. Adequate protections, pursuant to the Army Corps permit, exist for an archaeological area on the Maple Tree Place property but not in the proposed relocation area. Snow or construction fencing is to be installed around the perimeter, 10 meters beyond the outermost identified artifact of the archaeologically sensitive area, and to be designated "Not to Be Disturbed." Hence this archaeologically sensitive area will be protected during construction. Hamlin pf. at 4-5.

Necessary Wildlife Habitat and

Endangered Species

[10 V.S.A. § 6086(a) (8) (A)]

49. Any impact on wildlife habitat will be due to the overall development, not the subject relocation. Hamlin pf. at 8.

50. There are no known endangered species within the proposed relocation area. Hamlin

involved is the proposed power line itself. There is no impact on this investment as Maple Tree Place is paying the full cost. The proposed relocation is designed to improve traffic flow, by allowing an alternate route around Tafts Corners, resulting in a beneficial impact. Burley pf. at 9-10.

Public Health and Safety

52. The proposed relocation will have no impact on public health and safety. The proposed new line will be built to National Electric Safety Code ("NESC") standards for Heavy Loading due to ice and wind loading. Clearance from the ground and objects above ground will meet or exceed NESC standards. Harvey pf. at 3.

53. The proposed relocated line will likely have the same or slightly decreased power-frequency electric and magnetic fields at the edge of the right of way, as compared to the existing line as presently configured. While Vermont has not adopted standards for edge of right of way electromagnetic fields, the electromagnetic fields from the proposed relocated power line will be considerably lower than what would be allowed under standards for the states that have adopted standards for edge of right of way electromagnetic fields. Kirby pf. at 5-7; exh. VELCO 16, LRK-5.

Compliance With Electric Energy Plan

[30 V.S.A. § 248(b)(7)]

54. The project as proposed is consistent with the Vermont 20-Year Electric Plan. In a letter dated December 28, 1999, the DPS has determined that the proposed project is

(2) implements any needed mechanical protection or other precautions to ensure reliability.

DPS Section 202(f) Determination.

Outstanding Water Resources

[30 V.S.A. § 248(b)(8)]

55. No waters of the state that might be designated as outstanding Resource Waters will be affected by the proposed project. See finding 29 above.

Existing Transmission Facilities

[30 V.S.A. § 248(b)(10)]

56. The proposed relocation will have no adverse effect on Vermont customers or utilities, and will not adversely affect stability or reliability. Harvey pf. at 5; see finding 25 above.

III. CONCLUSION

Based upon all of the above evidence, 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 in 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

DATED at Montpelier, Vermont, this 15th day of March, 2000.

s/Michael H. Dworkin)

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PUBLIC SERVICE

s/Suzanne D. Rude)

BOARD

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OF VERMONT

s/David C. Coen)

OFFICE OF THE CLERK

Filed: March 15, 2000

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 mail) of any technical 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.