

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. _____

Petition of Green Mountain Power for a Certificate of Public Good pursuant to 30 V.S.A. § 248 authorizing the rebuild of the Lowell Substation and the upgrade of 18.1 miles of the B20 line from Johnson to Lowell, and Joint Petition of GMP, the Village of Morrisville Water and Light Department, and the Village of Johnson Water and Light Department for a CPG pursuant to 30 V.S.A. § 248 to authorize the upgrade of 1.5 miles of the B22 line, in the Towns of Lowell, Eden, Johnson, and Morristown, Vermont	
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**GREEN MOUNTAIN POWER’S MOTION FOR A PROTECTIVE ORDER FOR
CONFIDENTIAL TREATMENT OF PREFILED EVIDENCE**

Green Mountain Power (“GMP”) requests that the Public Utility Commission (the “Commission”), pursuant to Commission Rule 2.206 and 30 V.S.A. § 9, issue a Protective Order allowing for the confidential treatment of unredacted exhibits supporting GMP’s Petition for a Certificate of Public Good in the above-captioned matter. In support of this Motion, GMP submits the following Memorandum of Law, as well as the attached Averment (**Attachment A**) and a Proposed Protective Order (**Attachment B**).

MEMORANDUM OF LAW

I. Introduction

On November 4, 2019, GMP filed a Petition and supporting prefiled testimony and exhibits in this matter seeking a Certificate of Public Good in accordance with 30 V.S.A. § 248. Information prepared by Northeast Archeology Research Center, Inc. (“NE ARC”) supports the Petition, and it contains information regarding the location of certain designated archaeological sites (“Protected Location Information”). Versions of NE ARC’s reports with all of the Protected

Location Information redacted were filed as CONFIDENTIAL Exhibit GMP TOU-1 (REDACTED), CONFIDENTIAL Exhibit GMP TOU-2 (REDACTED), and CONFIDENTIAL Exhibit GMP TOU-7 (REDACTED). Contemporaneous with filing this Motion, GMP is filing an unredacted, confidential version of these three NE ARC reports under seal. GMP seeks confidential treatment of those portions of the exhibits containing Protected Location Information.

Specifically, GMP seeks confidential treatment of portions of these exhibits:

1. CONFIDENTIAL Exhibit GMP TOU-1 (NE ARC B20 ARA);
2. CONFIDENTIAL Exhibit GMP TOU-2 (B20 Phase I End-Of-Field Letter); and
3. CONFIDENTIAL Exhibit GMP TOU-7 (NE ARC B22 ARA).

These three exhibits are collectively referred to here as the “Confidential NE ARC Reports.”

II. Standard

In determining whether to grant confidential treatment, the Commission considers four issues:

- (1) Is the matter sought to be protected a trade secret or other confidential research, development, or commercial information that should be protected?
- (2) Does the matter sought to be protected contain CEII?
- (3) Would disclosure of such information cause a cognizable harm sufficient to warrant a protective order?
- (4) Has the party seeking protection shown “good cause” for invoking the Commission’s protection?

Joint Petition of Vermont Transco, LLC and Vermont Electric Power Company, Inc., Case No.

17-5240-PET (Vt. Pub. Util. Comm. Jan. 23, 2018) at 2.

Pursuant to Vermont law, the location of archaeological sites is considered Protected Location Information subject to protection and required to be treated as confidential information. 22 V.S.A. § 761.

III. Description of the Matters Sought To Be Protected

GMP seeks to treat as confidential Protected Location Information contained in the three Confidential NE ARC Reports, which have been submitted as evidence in this case. The information contained in these reports is protected by Vermont law. Section 761(b) of Title 22 provides that, “[a]ll information regarding the location of archeological sites and underwater historic properties shall be confidential. . . .” 22 V.S.A. § 761(b); *see also* 54 U.S.C. § 307103, formerly cited as 16 U.S.C. § 470w-3 (providing similar authority to withhold location information from public disclosure under federal law). See Averment 1 (Attachment A).

GMP only seeks confidential treatment for those portions of the Confidential NE ARC Reports that contain Protected Location Information. CONFIDENTIAL Exhibit GMP TOU-1 (REDACTED), CONFIDENTIAL Exhibit GMP TOU-2 (REDACTED), and CONFIDENTIAL Exhibit GMP TOU-7 (REDACTED) are redacted versions of these exhibits, with the Protected Location Information removed.

IV. Disclosure Of The Information Would Cause A Cognizable Harm Sufficient To Warrant A Protective Order

Disclosing the confidential material contained in the Confidential NE ARC Reports would expose sensitive and significant archaeological sites to potential harm by informing third parties of the specific locations of these federal- and state-protected sites. The information in the public version of exhibits, is sufficient to inform the lay public's view of the Project while not disclosing the Protected Location Information. See Averment 1 (Attachment A).

V. Good Cause Exists For Invoking The Commission's Protection

For the above-stated reasons, there is good cause for the Commission to issue an order according confidential treatment to the information in the Confidential NE ARC Reports, set forth in GMP's Averment 1 (Attachment A), in the manner set forth in the Proposed Order (Attachment B).

CONFIDENTIAL Exhibit GMP TOU-1, CONFIDENTIAL Exhibit GMP TOU-2, and CONFIDENTIAL Exhibit GMP TOU-7 have only been provided to the Commission and will be provided to those parties that execute a protective agreement. The redacted versions of these exhibits remove the Protected Location Information, and have been provided to all parties. To the extent that any party disputes the designation of the redacted passages as confidential and GMP and that party are unable to resolve the dispute, GMP seeks an opportunity to present additional information for the Commission's consideration specific to the disputed redacted passages in connection with this Motion.


VI. Conclusion

For the above-stated reasons, GMP respectfully requests that the Commission issue a Protective Order in the form attached as Attachment B.

Dated at Burlington, Vermont, this 4th day of November, 2019.

GREEN MOUNTAIN POWER

By:



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