

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 18-3160-PET

Green Mountain Power Corporation request for approval of a special contract with GlobalFoundries U.S. 2 LLC pursuant to 30 V.S.A. § 229	
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Order entered: 12/31/2018

**ORDER APPROVING SPECIAL CONTRACT**

**I. INTRODUCTION**

In this Order, pursuant to 30 V.S.A. § 229, the Vermont Public Utility Commission (“Commission”) approves the special contract between Green Mountain Power Corporation (“GMP”) and GlobalFoundries U.S. 2 LLC (“GlobalFoundries”), subject to the terms and conditions set forth below.

**II. BACKGROUND INFORMATION**

On September 11, 2018, GMP and GlobalFoundries jointly filed a petition requesting approval of a special contract governing the provision of electric service for a term beginning January 1, 2019, and ending September 30, 2022. The proposed special contract includes:

1. A 2.73% reduction to each component of Rate 70, GMP’s only transmission service class, effective January 1, 2019, consistent with the proposed rate design changes considered by the Commission in Case No. 18-2850-TF;
2. A rate freeze for GlobalFoundries for a period of three years and nine months;
3. Exemption of GlobalFoundries from any credit or adjustors, positive or negative, in effect under GMP’s current interim regulation plan (2018-2019), approved in GMP’s most recent rate case, Case No. 18-0974-TF (including any tax reform credits to be paid to customers related to the return of Accumulated Deferred Income Taxes), or approved as part of GMP’s proposed Multi-Year Rate Plan (“MYRP”) in Case No. 18-1633-PET, except that GlobalFoundries will be subject to the exogenous change adjustor for major storm expenditures reasonably related to transmission infrastructure repairs;

4. An additional incentive to GlobalFoundries to develop new and curtailable load by increasing its own operations or attracting new curtailable load from tenants or purchasers of its properties that can be utilized by GMP to lower costs for all customers; and
5. A commitment by GlobalFoundries to continue to consume electricity from GMP during the term of the special contract at least at the baseline amount of 350 million kWh of electric energy per year.

On September 20, 2018, the Commission conducted a joint status conference in this case, Case No. 18-2850-TF, and Case No. 18-0974-TF.

On October 11, 2018, the Department filed a letter recommending that the Commission approve the proposed contract. The Department stated that the “special rate provides incentives for retaining GMP’s single largest consumer without resulting in a direct unjust or unreasonable cross-subsidy from other GMP ratepayers” and that the contract “represents an appropriate balance of the economic policy objectives set out in 30 V.S.A. § 218e as well as Vermont’s broader energy policy goals.” The Department recommended that the Commission approve the special contract.

On October 18, 2018, the Commission issued an Order finding good cause to issue a final decision regarding the special contract concurrently with decisions in Case No. 18-2850-TF and in Case No. 18-0974-TF.

On December 21, 2018, the Commission issued Orders in Case No. 18-2850-TF and in Case No. 18-0974-TF. The Commission authorized the proposed 2.73% reduction to Transmission Rate 70, finding that the rate will result in GlobalFoundries contributing significant revenue beyond its marginal cost of service and that the rate provides an incentive for GlobalFoundries to maintain ongoing manufacturing operations in Vermont.

### **III. DISCUSSION AND CONCLUSION**

Under the Commission’s Order Establishing Standards and Procedures for the filing and review of proposed special contracts pursuant to 30 V.S.A. § 229, requests for approval of a special contract must include, at a minimum, the proposed special contract and appropriate

supporting information to enable the Commission and the Department to review the special contract's terms.<sup>1</sup> Section 229 of Title 30 states, in relevant part, that:

A public service company shall not directly or indirectly or by any special rate, rebate, drawback or other device or method make any deviation from the rates, fares, charges or prices for any service rendered by it or in services rendered or to be rendered in connection therewith, as specified in its schedules of charges in effect at the time such service was rendered. No public service company may enter into any special contract, agreement or arrangement relating to the furnishing or rendering of any special product or special service not provided for or covered in the schedule without the prior approval of the Commission. . . . Subject to the approval of the Commission, it shall be lawful for any public utility to make a special contract for a definite term for its product or service.

As such, utilities are required to charge all customers the rates set out in their tariffs, unless they receive approval by the Commission for a special contract. The proposed rate identified in the special contract for GlobalFoundries is the same rate that is approved under GMP's most recent rate design proposal for Transmission Class 70. Furthermore, the rate is proposed to be in effect for a defined term.

In 2013, the General Assembly enacted 30 V.S.A. § 218e, which provides that "it is critical to retain and recruit manufacturing and other businesses and to consider the impact on manufacturing and other businesses when issuing orders, adopting rules, and making other decisions affecting the cost and reliability of electricity and other fuels." Section 218e further directs that Vermont's energy policy should:

- (1) encourage recruitment and retention of employers providing high-quality jobs and related economic investment and support the State's economic welfare; and
- (2) appropriately balance the objectives of this section with the other policy goals and criteria established in this title.

Accordingly, in considering the proposed special contract, we find that GlobalFoundries, GMP's largest retail customer and only customer in Transmission Rate Class 70 is also Vermont's largest manufacturing employer as well as the largest private employer in Vermont. As such, we conclude pursuant to Section 218e(1) that the proposed agreement will encourage

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<sup>1</sup> *Order establishing standards and procedures regarding the filing and Commission review of proposed special contracts pursuant to 30 V.S.A. § 229, Order of 12/24/14 at 8.*

recruitment and retention of an employer providing jobs and related economic investment and will support the State's economic welfare.

Pursuant to Section 218e(2), these objectives must be balanced with the other policy goals and criteria established in Title 30. We find that the proposed special contract strikes the appropriate balance for three reasons. First, GlobalFoundries will be required to pursue all cost-effective energy efficiency and conservation measures, as discussed further below, thus advancing the State's energy policy under Section 202a. Second, we conclude that the rate is just and reasonable, as required by Section 218(a). The revenues generated for GMP are expected to exceed the marginal costs to serve GlobalFoundries' load, thus ensuring that the special contract will cover the costs to serve GlobalFoundries and provide a contribution to GMP's fixed costs. Third, we find that the proposed special contract is fair and equitable, as the terms of the special contract will create economic benefits that might not otherwise exist by incentivizing Vermont's largest manufacturing employer to maintain operations in the state. Increased energy costs have a "direct and harmful impact on the competitiveness of the Vermont facility."<sup>2</sup> Therefore, keeping electricity rates stable will provide some certainty to GlobalFoundries in the highly competitive semiconductor manufacturing industry.

Based on our findings that (1) the special contract will promote the efficient use of energy, and (2) the special contract rate will be just and reasonable and not unjustly discriminatory, we conclude that the special contract appropriately balances the policy goals and criteria established in Title 30 with the employment and economic objectives of Section 218e(1).

In our approvals of other special contracts, the Commission has required that the utility demonstrate that the special contract customer is participating to the fullest extent possible in energy efficiency programs. Under the terms of the proposed special contract, GlobalFoundries will continue to pursue all cost-effective energy efficiency and conservation measures in cooperation with GMP, advancing the State's energy policy under 30 V.S.A. § 202a. GlobalFoundries and GMP are required to jointly file an annual report within 120 days following the end of each year of the special contract, identifying the past year's load for GlobalFoundries'

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<sup>2</sup> Order of 12/21/18 at 7.

Vermont facility, the amount spent on energy efficiency, a description of specific energy efficiency or other energy savings actions undertaken, and the amount of energy saved.

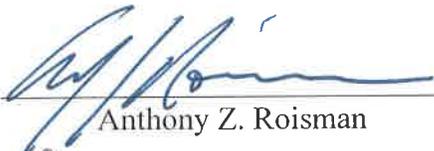
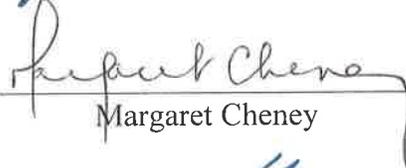
After reviewing the proposed contract and the Department's recommendation, we approve the special contract. Our approval of this special contract reflects our overall judgment that it complies with 30 V.S.A. § 229. Our approval should not be construed as approval or disapproval of any of the specific negotiated terms, or as a determination that those terms are, or are not, cost-effective for GlobalFoundries or otherwise are, or are not, in GlobalFoundries' best interest.

#### **IV. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission ("Commission") of the State of Vermont that:

1. The special contract between Green Mountain Power Corporation ("GMP") and GlobalFoundries U.S. 2 LLC ("GlobalFoundries") is approved.
2. GlobalFoundries and GMP shall jointly file an annual report in the compliance portion of this case within 120 days following the end of each year of the special contract, identifying the past year's load for GlobalFoundries' Vermont facility, the amount spent on energy efficiency, a description of specific energy efficiency or other energy savings actions undertaken, and the amount of energy saved.

Dated at Montpelier, Vermont, this 31st day of December, 2018.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: December 31, 2018

Attest:   
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.*

PUC Case No. 18-3160-PET - SERVICE LIST

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