MEMORANDUM

TO: CCRPC Executive Committee
FROM: Emily Nosse-Leirer, Planner
RE: Vermont Green Line Intervention
DATE: 3/2/2017

This packet includes several documents related to the Vermont Green Line project (PSB Docket #8847). As you recall, CCRPC submitted a motion to intervene in these proceedings in January, as the transmission line will run along the bottom of Lake Champlain through Chittenden County. The motion to intervene cited economic and environmental issues as being of concern. To summarize all the documents you are receiving:

1. Green Line replied to CCRPC’s first round of discovery questions on 2/13/17.
2. On 2/10/17, Green Line claimed that CCRPC should not be granted party status because Lake Champlain is not part of Chittenden County, and because CCRPC’s environmental and economic issues are adequately represented by other parties.
3. On 2/23/17, the Public Service Board sustained this objection and denied CCRPC’s motion to intervene, but noted that CCRPC may refile.
4. Vermont law states that the boundaries of Chittenden County extend to the New York border and include parts of Lake Champlain. The map of the project (attached) clearly shows that the line is located within Chittenden County. Because ANR and the Conservation Law Foundation are both parties to these proceedings, staff agrees that CCRPC’s environmental concerns are adequately represented by other parties. However, CCRPC represents towns with economic interests in this matter that are not represented by other parties. A second motion to intervene, citing the fact that this project is within Chittenden County, and that CCRPC has a substantial interest in economic issues in Chittenden County, is attached.
5. Adam Lougee, Executive Director of Addison County Regional Planning Commission, brought it to CCRPC’s attention that the Green Line project reliability analysis includes plans for a large and expensive reconductoring project on the VELCO 115Kv transmission lines between New Haven and Williston, which pass through Hinesburg, St. George and Williston. This reconductoring would likely be a significant project, which should be subject to a separate PSB process to allow municipalities and RPCs to comment. However, it appears that the reconductoring is being evaluated as part of this project. Detailed information on grid impacts from the transmission line have been submitted to the PSB, but this information is confidential due to security concerns, so the affected regions and municipalities are not able to adequately evaluate the effects of this reconductoring. Therefore, a second set of discovery questions are attached, seeking more information on this issue.
CHITTENDEN: 1.1 Pre-filed direct testimony of Joseph Rossignoli, page 11, lines 13-15 and page 12, lines 4-6:

Mr. Rossignoli states that “VGLD’s proposal includes a number of direct financial benefits to the State of Vermont and communities impacted by the Project, including, but not limited to…An estimated $4.1M per year in property taxes to Vermont municipalities over the 40-year life of the Project.”

Pre-filed direct testimony of Joseph Rossignoli, page 25 in lines 5-6:
Mr. Rossignoli further states that “The Project will provide the State of Vermont and the towns of Ferrisburgh, Waltham, and New Haven a new source of tax revenue.”

The transmission line will be located underwater within several lakefront municipalities not named as tax revenue recipients in Mr. Rossignoli’s testimony. Please provide further information regarding whether those lakefront municipalities will receive tax revenues from this project.

RESPONSE:

VGLD does not anticipate paying any taxes directly to lakefront communities in Chittenden County because the transmission line will not be located within their territorial boundaries and is not subject to taxation. VGLD has not undertaken an evaluation of what portion of State tax revenues the lakefront municipalities in Chittenden County will receive from State education, income, and sales and use taxes paid by VGLD in connection with the Project.

Response provided by: Joseph Rossignoli
President, Vermont Green Line Devco LLC
Pre-filed direct testimony of Joseph Rossignoli, page 11, lines 13-15 and lines 18-22:

Mr. Rossignoli states that “VGLD’s proposal includes a number of direct financial benefits to the State of Vermont and communities impacted by the Project, including, but not limited to… $425,000 in annual payments to VTrans for use of a 1.3 mile stretch of limited access facilities along Route 7 during the 40-year life of the Project. Payments to VTrans will escalate by 3% per year beginning in year 11 of the Project.”

Pre-filed direct testimony of Joseph Rossignoli, page 12, lines 19-20:

Mr. Rossignoli states that “VGLD will explore providing additional benefits to the State of Vermont to recognize the Project’s use of, and installation in, Lake Champlain.”

Mr. Rossignoli’s pre-filed testimony did not include any information regarding lease revenue for the Lake Champlain portion of the project. Please provide further information regarding anticipated lease revenues from the cables within Lake Champlain; and furthermore whether the lease agreements will be made with the State or the lakefront municipalities for the cables within Lake Champlain.

RESPONSE:

VGLD does not anticipate any lease payments to the State of Vermont or to lakefront municipalities for the placement of transmission cables in Lake Champlain and is unaware of any legal authority for either the State of Vermont or lakefront municipalities in Vermont to lease the lakebed of Lake Champlain.

Response provided by: Joseph Rossignoli
President, Vermont Green Line Devco LLC
Dr. Bailey explains: “Altogether, the presence of the cable will have a negligible effect on marine course navigation which relies upon magnetic compasses because the deviation is very small, would occur only within about 25 feet of the cable, and the lake is small.”

Considering the impact on compass navigation will NOAA and the Coast Guard be notified of the effect of the cables on navigational compass readings so that users of these devices will be adequately alerted of the effect?

RESPONSE:

Upon completion of construction and energization of the Project, VGLD will submit a Permit/Public Notice Completion Report to NOAA - Office of Coast Survey which includes “as-built” maps to have the cable location “charted”. The form is auto-generated from the US Army Corps of Engineers Clean Water Act permit process and mailed to the “permittee” listed on the CWA permit. The completed form and as-built maps are also submitted to the NOAA Nautical Data Branch. Any inquiries from NOAA regarding the potential effect of the HVDC line on navigational compass readings will be addressed by VGLD at that time.

As a clarifying point, referencing the Lake Encroachment Permit Application, the cable will only be surface laid on the bottom in 150 feet of water or deeper, the cable exit point from the HDD will be in a minimum of 25 feet of water, and that the HDD in Kingsland Bay will be well below the surface of the lake floor, more than 25 feet of distance from the lake surface and thus minimizes potential impacts on magnetic compasses.

Response provided by:  Colin Duncan
Project Manager
TRC Environmental
Docket No. 8847

Petition of Vermont Green Line Devco, LLC, pursuant to 30 V.S.A. §§ 231 and 248, for a certificate of public good to own, operate and construct an underwater and underground 400 MW high voltage direct current (“HVDC”) electric transmission line, converter station and associated facilities to be located in Lake Champlain and the Towns of Ferrisburgh, Waltham and New Haven, Vermont, and for de minimis regulation.

VERMONT GREEN LINE DEVCO, LLC
RESPONSE TO MOTIONS TO INTERVENE

NOW COMES Vermont Green Line Devco, LLC ("VGLD"), Petitioner in the above-captioned matter, by and through the undersigned counsel, to respond to the motions to intervene filed by the Vermont Division of Historic Preservation, Chittenden County Regional Planning Commission, Champlain VT, LLC d/b/a TDI New England, Friends of Kingsland Bay, Inc., Renewable Energy Vermont, Vermont Gas Systems, Bluefield, LLC, Burlington Electric Department, Joseph and Jackie Rivers, Billie and Erin Baslow, John and Bridget Kipp and Rack and Reel, LLC, Polly Darnell, and Cross Pollination, Inc. VGLD’s response to each motion is set forth in the Memorandum on Intervention, below.

MEMORANDUM ON INTERVENTION

Intervention in Public Service Board proceedings is available if a party demonstrates that it meets the standards set forth in Board Rule 2.209. Under 2.209(A), a
a party is entitled to intervene “as of right” if the party establishes one or more of the following: (1) a statute confers on the party an unconditional right to intervene; (2) a statute confers on the party a conditional right to intervene and the condition(s) are satisfied; or (3) the party has a substantial interest that may be adversely affected by the outcome of the proceeding, the proceeding provides the exclusive means by which the party can protect its interest, and the party’s interest is not adequately represented by another existing party(ies). Alternatively, permissive intervention under Rule 2.209(B) is available to a party that demonstrates that it has a substantial interest that may be affected by the outcome of the proceeding. When making its determination on permissive intervention, the Board considers whether the party’s interest in the proceeding will be adequately protected by other parties; whether there are other means by which the party may protect its interest; and whether the party’s intervention will cause undue delay or prejudice the interests of the public or other parties.

Vermont Division of Historic Preservation

Vermont Division of Historic Preservation (“VDHP”) filed a timely motion to intervene to represent its interest in reviewing the impact of development on the state’s historic resources under 30 V.S.A. § 248(b)(5). VGLD does not object to VDHP’s permissive intervention on the issue of historic sites under the Section 248(b)(5) criterion.
Chittenden County Regional Planning Commission

The Chittenden County Regional Planning Commission (“CCRPC”) filed a timely motion to intervene to represent its interests in “economic and environmental issues in the CCRPC region.” CCRPC Mot. at ¶ 6. Although the Vermont Green Line Project plans filed with the Public Service Board show that no portion of the Project will be located within the borders of any CCPRC member town, the CCRPC nevertheless alleges that the Project will impact towns belonging to the CCRPC. Id. at ¶ 2. The Vermont Green Line will be submerged in Lake Champlain outside the territorial boundaries of all Chittenden County municipalities and will make landfall in the Town of Ferrisburgh located in Addison County, Vermont. Inasmuch as the Project is not located in any CCRPC member community, the CCPRC’s interest in this proceeding cannot be considered “substantial” within the meaning of the Public Service Board’s intervention rule. Furthermore, the CCRPC’s interest in environmental issues arising out the Project are adequately represented by the Vermont Agency of Natural Resources, the entity designated by the Vermont Legislature to review and offer evidence on Section 248(b)(5), which encompasses the environmental criteria applicable to the Project. The CCPRC’s claimed interest in economic issues within its region are also adequately represented by another party, in this case the statutory advocate for the public interest under 30 V.S.A. § 2 (Vermont Department of Public Service).

Accordingly, VGLD opposes the CCRPC’s motion and recommends that the Board deny it.
Alternatively, if the Board determines that it is appropriate to grant permissive intervention to the CCRPC, VGLD requests that the Board require the CCRPC to supplement its motion to identify the specific economic and environmental issues it wishes to examine, limit the scope of CCRPC’s intervention accordingly, and require the CCRPC to coordinate its case with parties who share substantially similar interests.

**Champlain VT, LLC d/b/a TDI New England**

Champlain VT, LLC d/b/a TDI New England (“TDI”) filed a timely motion to intervene to protect its interests in a previously permitted high-voltage electric transmission line planned for underwater installation in Lake Champlain. TDI Mot. at 1, 4. TDI states that its intervention is not for the purpose of taking a position in favor or against the proposed Vermont Green Line Project. Id. at 1. Rather, TDI moves to intervene “so that it may ensure that the Green Line Project’s proposed route (including any revised routes), construction methods and timing, and operation do not have an undue adverse impact on the construction and operation” of TDI’s project. Id. at 5.

VGLD agrees that it is wise to identify potential issues regarding construction and operation of the TDI project to ensure that the Vermont Green Line and TDI’s project can coexist without one resulting in an undue adverse impact on the other if TDI’s project becomes mature enough to move forward into construction. For that reason, VGLD does not oppose TDI’s permissive intervention on the limited basis stated in its motion to intervene.
Friends of Kingsland Bay, Inc.

The Friends of Kingsland Bay, Inc. (“FOKB”), a domestic non-profit corporation, filed a timely motion to intervene to protect its members’ interests in recreational boating and swimming in Kingsland Bay in Lake Champlain. FOKB Mot. at 1. To support its motion, FOKB recklessly asserts inaccurate facts. First, FOKB states that the Town of Ferrisburgh “has agreed to the current proposed VGL route through Kingsland Bay.” Id. at 2. In fact, the Town of Ferrisburgh has not taken a position in this docket on VGLD’s proposed route through Kingsland Bay, nor have the Town and VGLD entered an agreement on the proposed route through Kingsland Bay. Second, FOKB states that the Agency of Natural Resources has agreed to the proposed route through Kingsland Bay. Id. It is true that the Agency of Natural Resources issued VGLD a license for VGLD’s use of Kingsland Bay State Park, but the Agency has yet to issue a Lake Encroachment permit and “agree” to VGLD’s underwater route through Lake Champlain, including the route through Kingsland Bay. VGLD posits that reckless disregard for the truth in filings to the Board is per se prejudicial to VGLD, the other parties, and the Board and disqualifies FOKB from being granted intervenor status in this proceeding.

If the Board determines that FOKB’s inaccurate statements are not disqualifying, VGLD respectfully requests that the Board limit FOKB’s intervention solely to issues on VGLD’s proposed use of Kingsland Bay. Potential alternatives to the Kingsland Bay route, potential impacts to Lake Champlain, VGLD’s use of Kingsland Bay State Park
and public roads or rights of way, are issues that fall outside the scope of FOKB’s stated particularized interests. The Agency of Natural Resources is fully equipped to address those other issues and is an adequate representative of any interest FOKB may have in those issues.

**Renewable Energy Vermont**

Renewable Energy Vermont (“REV”) is a business trade organization whose members are directly involved in in-state renewable energy development and include the state’s utilities, such as VELCO, Green Mountain Power, and the Burlington Electric Department, all three of which have moved to intervene in this proceeding. REV asserts that it has a particularized interest in this proceeding because “the Project is expected to cause an assortment of new power flow patterns, system upgrades, and operational requirements likely to economically effect REV’s members and their customers and future renewable energy project development in Vermont.” REV Mot. at 2. REV further asserts that its interests cannot be adequately represented by existing parties, and this proceeding is the exclusive means to protect its allegedly particularized and substantial interest. *Id.* REV seeks intervention as of right and on a permissive basis, and VGLD objects to both requests.

Existing parties, such as VELCO and the Vermont Department of Public Service, adequately represent the interests REV claims to have in this proceeding. Indeed, VELCO is in the best position to address “the power flow patterns, system upgrades,
and operational requirements” arising from VGLD’s project because the project will interconnect with the VELCO transmission system. As VELCO’s own motion to intervene noted, VELCO is responsible for the integrity and reliability of the Vermont electric transmission system and no other party can adequately represent those interests. VELCO Mot. at 2. Thus, to the extent REV seeks intervention because its members rely on VELCO’s transmission system, see REV Mot. at 2, its members’ interests are already adequately represented by VELCO itself.

**Vermont Gas Systems**

Vermont Gas Systems, Inc. (“VGS”) timely moved to intervene to protect its interests in a natural gas transmission line that will be located in proximity to the proposed Vermont Green Line in an area close to the proposed converter station in New Haven, Vermont. VGS’s interests are limited to issues relating to the Vermont Green Line’s construction near the VGS transmission facility that the Public Service Board authorized in Docket No. 7970. VGS Mot. at 2. VGLD does not object to VGS’s permissive intervention and believes that VGS’s participation will help to identify and resolve any potential issues and concerns regarding the construction and operation of the Vermont Green Line in proximity to VGS’s gas transmission line.

**Bluefield, LLC**

Bluefield, LLC is the owner of a parcel of land abutting Sand Road in Ferrisburgh, Vermont and filed a timely motion to intervene. Bluefield’s motion states
that the potential impacts from VGLD’s proposed “transmission line and converter
station are unknown,” but asserts that the project will directly and indirectly impact
Bluefield’s property interests. Bluefield Mot. at 1. Bluefield does not identify which
Section 248(b) criteria it seeks to address through its participation, and it does not
explain how a converter station located in New Haven could impact property located in
Ferrisburgh. Bluefield’s claim that the project’s potential impacts are “unknown” flies in
the face of hundreds of pages of prefiled evidence describing the potential impacts and
how VGLD intends to avoid or mitigate impacts that may be adverse. Those materials
show that the project is not expected to have an impact on Bluefield’s Ferrisburgh
parcel as the work in that section is planned for the width of the road right of way and
without the need for temporary or permanent easements. VGLD opposes Bluefield’s
motion because it fails to show how Bluefield’s property interests might be adversely
impacted by the proceeding’s outcome.

**Burlington Electric Department**

Burlington Electric Department, the state’s largest municipal utility, is part
owner of Vermont Transco’s bulk transmission assets. Like GMP, BED’s motion
demonstrates that permissive intervention is appropriate, and VGLD does not object to
BED’s status as a party in this case.
Northwest Regional Planning Commission

The Northwest Regional Planning Commission ("NRPC") filed a timely motion to intervene to address the orderly development criterion, 30 V.S.A. § 248(b)(1). NRPC Mot. at 1. NRPC member towns include Grand Isle and South Hero, within whose borders a portion of the underwater transmission line will be located. Under 30 V.S.A. § 248(a)(4)(G), the regional commission “for the region in which the facility is located shall have the right to appear as a party” in this proceeding. Therefore, the Board should grant the NRPC’s motion.

Joseph and Jackie Rivers

Joseph and Jackie Rivers (the “Rivers”) own property at 3838 Sand Road in Ferrisburgh, Vermont. Their form motion to intervene lists several issues they wish to address: safety, property value/resale value, effects of blasting if required, aesthetics, restrictions to and compensation for the use of their property. Rivers Mot. at 1. The plan and profile drawings for the land portion of the cable route that were filed with the Section 248 petition, Exhibit VGLD-BR-3, show a proposed joint bay on the Rivers property. Although the final design will be able to avoid the Rivers property if VGLD and the Rivers are unable to reach an agreement on the use of their property, VGLD does not oppose the Rivers’ intervention on the limited issues stated in their form notice, with the exception of property values. Individual property values are not an issue the Board may consider in a Section 248 proceeding, and VGLD has not put the
matter in issue along the land cable route. See Joint Petition of Vermont Electric Power Company, Inc., Green Mountain Power Corporation and the Town of Stowe Electric Department, Docket No. 7032, Order of 2/2/2005 at 2 (“[T]he issue of the impact of the proposed Project on individual property values does not fall within the criteria of Section 248”); see also Petition of Charlotte Solar, LLC, Docket No. 7844, Order of 1/22/2013 at 17 (finding that the property value evidence presented by neighbors related not to the impact of the project on property values on a town or region-wide scale, but rather to the interests of private property owners—“a matter that is not at issue in this Section 248 proceeding”, and citing Vermont Electric Power Company, Inc. v. Bandel, 135 Vt. 141, 145 (1977) (“This Court considers it settled law that proceedings under 30 V.S.A. § 248 relate only to the issue of public good, not the interests of private landowners who are or may be involved.”)).

Billie and Erin Baslow

Billie and Erin Baslow are adjoining landowners to the proposed converter station site and live at 4762 Ethan Allen Highway (Route 7) in New Haven. They filed a timely motion to intervene to address concerns about aesthetics, sound, traffic, property values, and health impacts. VGLD does not oppose the Baslows’ intervention on these issues of aesthetics, sound, traffic, and property values from their perspective as adjoining landowners under Section 248(b)(5) because their motion demonstrates they have a particularized interest in those issues and because VGLD has included the
Baslow property in the VGL Compensation Fund (see Prefiled Testimony of Joseph Rossignoli at 15). Any order granting the Barlows’ motion to intervene should limit their participation to the issues identified in their motion.

**John and Bridget Kipp and Rack and Reel, LLC**

John and Bridget Kipp are adjoining landowners with a business, Rack and Reel, located at 5343 Ethan Allen Highway (Route 7) in New Haven. The Kipps seek to intervene on behalf of themselves and their business on the issues of traffic, aesthetics, sound, public health, and property values from their perspective as adjoining landowners. Kipp Mot. at 1; Rack and Reel Mot. at 1. VGLD does not object to the Kipps intervention on the issues stated in their motions, but objects to granting separate party status to their business as the Kipps and their limited liability company have unified interests in the outcome of this proceeding.

**Polly Darnell**

Polly Darnell is a neighbor to the proposed converter station site in New Haven and filed a timely motion to intervene on the issue of sound impacts from the converter station’s operation. Darnell Mot. at 1. VGLD does not oppose Ms. Darnell’s intervention on the issue of sound from her perspective as a neighboring landowner.

**Cross Pollination, Inc.**

Cross Pollination, Inc. owns and operates a solar array and organic farm on property adjacent to Route 7 where VGLD intends to install the underground
transmission line. Cross Pollination moves to intervene, claiming without any factual support whatsoever that VGLD “intends to locate the project on Cross Pollination property through eminent domain if necessary,” Cross Pollination Mot. at 1, and without identifying the Section 248(b) criteria that the company seeks to address through its intervention. While VGLD does not oppose Cross Pollination’s participation in this proceeding notwithstanding its unsupported assertion about the Project’s intent to use Cross Pollination’s property without its consent, we request that the Board require Cross Pollination to supplement its motion and identify with specificity the Section 248(b) criteria it wishes to address. The scope of Cross Pollination’s intervention should then be limited to the criteria on which it demonstrates a particularized interest not already represented by other parties in this proceeding.

CONCLUSION

In accordance with the foregoing, VGLD respectfully requests that the Board GRANT limited permissive intervention to VDHP, TDI, VGS, BED, the Rivers, the Baslows, the Kipps/Rack and Reel, Polly Darnell, and Cross Pollination, and DENY intervention to CCRPC, REV and Bluefield, LLC.
Dated at Castleton, Vermont this 10th day of February, 2017.

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ORDER RE: MOTIONS TO INTERVENE

I. INTRODUCTION

Twenty-two persons or entities have filed motions to intervene in this proceeding before the Vermont Public Service Board ("Board"), which concerns a petition filed by Vermont Green Line Devco, LLC ("Green Line") for a certificate of public good ("CPG") to own, operate, and construct an underwater 400 MW high-voltage direct-current electric transmission line, converter station, and associated facilities to be located in Lake Champlain and the Towns of Ferrisburgh, Waltham, and New Haven, Vermont (the "Project"). The Board previously granted intervention to the requests of the Vermont Electric Power Company, Inc. and Vermont Transco LLC (together "VELCO") and the Town of New Haven. The procedural schedule then fixed January 31, 2017, as the deadline for submitting intervention motions. In this Order, we grant all but two of the remaining motions outright and impose certain conditions on the interventions as granted. Chittenden County Regional Planning Commission ("CCRCP") and John Madden are denied intervention.

II. PROCEDURAL HISTORY

On October 21, 2016, Green Line filed the petition for approval of the Project.

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1 Tr. 11/30/16 at 28 (Volz).
On November 7, 2016, the Town of New Haven filed a motion requesting intervention as a party in this case.

On November 9, 2016, VELCO filed a motion requesting intervention as a party in this case.

On November 29, 2016, the City of Burlington Electric Department ("BED") filed a motion requesting intervention as a party in this case.

On November 30, 2016, the Board held a prehearing conference and, having heard no objections, granted the Town of New Haven and VELCO intervention requests.

On December 2, 2016, Polly Darnell filed a motion to intervene.

On December 13, 2016, the Conservation Law Foundation ("CLF") filed a motion to intervene.

On December 14, 2016, Green Mountain Power Corporation ("GMP") filed a motion to intervene representing that Green Line did not object to GMP's intervention.

On December 15, 2016, the Town of Ferrisburgh ("Ferrisburgh") filed a motion to intervene.

On December 19, 2016, the Addison County Regional Planning Commission ("ACRPC") and the Northwest Regional Planning Commission ("NRPC") each filed motions to intervene.

On December 27, 2016, the Vermont Division for Historic Preservation ("DHP") filed a motion to intervene.

On January 5, 2017, the Board issued a scheduling order in which it established January 31, 2017, as the deadline for intervention requests and February 10, 2017, as the deadline for comments on intervention requests.

On January 13, 2017, the CCRPC filed a motion to intervene.

On January 27, 2017, Rack n Reel LLC ("Rack n Reel"); John and Bridget Kipp (the "Kipps"); and Billie and Erin Baslow (the "Baslows") each filed motions to intervene.

On January 30, 2017, the Friends of Kingsland Bay, Inc. ("FOKB"); Bluefield LLC ("Bluefield"); and Joseph and Jackie Rivers (the "Rivers") each filed a motion to intervene.

On February 10, 2017, the Vermont Department of Public Service (the “Department”) and Green Line each filed comments on the motions to intervene. Green Line assented to the majority of the motions but objected to the intervention of the CCRPC, REV, and Bluefield. The Department also filed a response recommending that the Board grant all the intervention motions.

III. THE STANDARD

Board Rule 2.209 governs intervention in proceedings before the Board. Rule 2.209(A) provides that upon timely application a person shall be entitled to intervene in a proceeding in three circumstances:

(1) when a statute confers an unconditional right to intervene;

(2) when a statute confers a conditional right to intervene and the condition or conditions are satisfied; or

(3) when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest and where the applicant’s interest is not adequately represented by existing parties.

In addition, Rule 2.209(B) reserves to the Board the power to grant intervenor status on a permissive basis, when an applicant “demonstrates a substantial interest which may be affected by the outcome of the proceeding.” In exercising the discretionary authority reserved in Rule 2.209, the Board considers three factors:

(1) whether the applicant’s interest will be adequately protected by other parties;

(2) whether alternative means exist by which the applicant’s interest can be protected; and

(3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Rule 2.209(C) further provides that the Board may impose certain restrictions on an intervenor’s participation in a proceeding. Specifically, the Board may restrict such party’s participation to only those issues in which the party has demonstrated an interest; may require such party to join with other parties with respect to appearance by counsel, presentation of
evidence, or other matters; or may otherwise limit such party’s participation, all as the interests of justice and economy of adjudication require.

All of the pending intervention requests are timely inasmuch as they were filed on or before the January 31, 2017, deadline set forth in our Scheduling Order of January 5, 2017.

IV. DISCUSSION AND CONCLUSION

Friends of Kingsland Bay

FOKB’s members are regular users of the waters of Kingsland Bay State Park and Lake Champlain and stated a substantial interest in the potential impact of the Project on those waterways. Green Line has asserted that the FOKB is disqualified to serve as a party “for recklessly asserting inaccurate facts.” Should the Board not disqualify FOKB, Green Line makes an alternate recommendation that FOKB’s intervention be granted but be limited to the interest stated in FOKB’s motion. We are not persuaded by Green Line’s assertion that FOKB should be disqualified, and instead grant FOKB’s intervention limited to the interest stated in its motion.

Renewable Energy Vermont

REV’s stated interest in this case is in the potentially adverse economic impacts on existing renewable energy generating resources in Vermont that are owned and operated by REV’s members. “REV is a non-profit trade association whose more than 200 members include businesses, non-profits, utilities, and individuals directly involved in renewable energy project development.”2

Green Line asserts that other existing parties, VELCO in particular, can adequately represent REV’s interests. We disagree and overrule Green Line’s objection to REV’s intervention. We find that REV’s interests in this case, which like VELCO’s are related to various impacts of the Project on transmission lines, nonetheless differ from VELCO’s interests. REV represents the interests of its membership in the impacts of the Project. VELCO represents its shareholders. REV’s substantial interest in the potential economic impacts of the Project on its membership may not adequately be represented by VELCO. Therefore, REV is granted

2 REV’s Motion to Intervene at 2.
permissive intervention the scope of which is limited by the interest stated in its motion to intervene.

**Bluefield**

We are overruling Green Line’s objection to Bluefield’s intervention and grant Bluefield permissive intervention as an adjoining landowner. Green Line argues that the Project is “not expected to have an impact” on Bluefield’s adjacent property and that Bluefield has failed to show a precise impact on its property. We are not persuaded by Green Line’s argument that Bluefield has a lesser interest than any of the other adjoining landowners. The scope of Bluefield’s intervention is limited by the interest stated in its motion to intervene.

**Chittenden County Regional Planning Commission**

We sustain Green Line’s objection to CCRPC’s motion to intervene and deny the motion because CCRPC failed to articulate a substantial interest in this case. CCRPC’s motion does not explain how it has a substantial interest in this Project, which is not located in Chittenden County. Our denial of CCRPC’s motion is without prejudice and CCRPC may refile.

**John Madden**

Mr. Madden’s motion states that he has an interest in the potential impact of the Project on sound and aesthetics. His motion is denied for procedural and substantive reasons.

On its face, Mr. Madden’s motion states that copies of the motion were served solely on Green Line and New Haven.³ It is not clear whether even that service occurred.⁴ Board Rule 2.204(A) requires that all the parties to a proceeding be provided a copy of motions that are filed on paper. In this case, Mr. Madden’s motion suggest that all the parties were not served a copy

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³ While this case is being processed in ePSB, the Board’s new online document management system, Mr. Madden’s motion was filed in paper form and was not filed in ePSB. Therefore, Mr. Madden was required to serve his motion on all parties to the case. See Order re Procedures for Electronic Filing and Case Management, Order of 12/23/16.

⁴ The public can access ePSB and the Board’s orders on the Board’s website at [http://psb.vermont.gov/](http://psb.vermont.gov/).
⁴ Both Green Line and the Department addressed the other motions to intervene in this case, but Mr. Madden’s motion was not addressed by either the Department or by Green Line in their comments on the motions.
of Mr. Madden's motion. Mr. Madden’s motion is therefore denied procedurally for failing to provide effective notice.

Mr. Madden’s motion is also substantively flawed because it does not address why other parties to the proceeding, including the Department and the intervening adjoining landowners, will not adequately represent Mr. Madden’s interest in the sound and aesthetic issues he is concerned with. Therefore, Mr. Madden’s motion to intervene is denied.

**Intervening Parties Not Objected To**

Having not been objected to, the following entities are granted permissive intervention: BED, GMP, CLF, VGS, DHP, and TDI. The following parties were also not objected to and are granted permissive intervention as adjoining landowners: Ms. Darnell, Rack n Reel, the Kipps, the Baslows, the Rivers, and Cross Pollination. The scope of these parties’ intervention is limited by the interests stated in their motions to intervene.

The Project passes through Ferrisburgh as well as other municipalities within both the ACRPC and the NRPC regions. Ferrisburgh, ACRPC, and NRPC are therefore granted intervention by right pursuant to 30 V.S.A. §§ 248(G) and (H).

**Pro Se Representatives**

Board Rule 2.201(B) gives the Board the discretion to permit persons who are not attorneys to represent a corporation or association if the representative is an officer thereof or an employee who has been so designated in writing by an officer thereof. It is unclear from their motions whether the representatives of NRPC, FOKB, and Bluefield meet the requirements to serve as pro se representatives of their organizations. These parties are therefore directed to make a supplemental filing consistent with Board Rule 2.201(B) as soon as possible.

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5 The Board does not agree with Green Line’s recommendation that Rack n Reel and the Kipps should not be granted separate party status. The motions to intervene of each of these parties state different interests based on their different addresses. Rack n Reel is the Kipps’ business, but the potential impact of the Project on their business differs from the potential impact on their residence. Therefore, the two entities are separately granted permissive intervention. The Kipps and Rack n Reel are, however, encouraged to participate jointly in all filings, discovery, and cross examination, to the extent practicable.
Scope of Adjoining Landowner Intervention

We note that some of the landowners have expressed concerns in their motions about the adequacy of the compensation they might receive in the event the Petitioner is granted a CPG in this Docket and condemnation proceedings ensue. A related concern stated in some of the landowners’ intervention motions is the effect on individual property values. This Docket is not a condemnation proceeding and, thus, questions about the necessity to condemn a particular property (as distinct from the question of the necessity for the Project overall) or the valuation of any specific property are not within the scope of this Section 248 review. Thus, this proceeding will not address the impact of the proposed Project on individual property values. However, one factor relevant to determining whether the proposed Project will provide an economic benefit to the State is the overall impact of the proposed Project on property values in general. Thus, intervening landowners may address aggregate effects on land value to the extent these bear on the overall economic benefit analysis under Section 248(b)(4). Likewise, to the extent that individual landowners have raised issues related to other impacts on their properties, which implicate the Section 248(b)(5) criteria and these are within the scope of the permissive interventions we are granting here.

Rights and Responsibilities of Parties

We now take up the question of the extent to which the interests of justice and economy of adjudication require us to place limits on the intervenors’ participation in the case. This is a complex proceeding. As the result of our ruling today, many parties will be participating in discovery and the technical hearings. Accordingly, the resources of the Board and the parties must be allocated and managed with the recognition that these resources are not unlimited. We recommend, therefore, that the parties, to the extent feasible, work together in groups, according

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6 See Vermont Electric Power Co. v. Bandel, 135 Vt. 141, 145 (1977) (noting that Section 248 proceedings "relate only to the issues of public good, not to the interests of private landowners who are or may be involved").
7 Green Mountain Power Corp., Docket 7628, Order of 9/3/10, at 3 n.3.
8 30 V.S.A. § 248(b)(5) requires the Board to consider effects on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration to the criteria specified in 10 V.S.A. § 1424a(d) and, 10 V.S.A. § 6086(a)(1) through (8) and (9(k), and greenhouse gas impacts.
to their interests, to coordinate group members’ participation in discovery, in the presentation of evidence, in cross-examination, and in briefing.

An intervenor granted party status gains certain rights to participate in the case, including the right to conduct discovery, present evidence, cross-examine other parties’ witnesses, and file briefs. We observe that with these rights come corresponding responsibilities. All parties, including intervenors, must comply with the Board’s rules and orders, including the schedule that has been established for this proceeding, the obligation to respond to the information requests of other parties, and the obligation to provide paper copies of each filing to those parties not using ePSB. Furthermore, under our rules “anyone appearing as a pro se representative shall be under all the obligations of an attorney admitted to practice in this state with respect to the matter in which such person appears.”

Adherence to the Board’s rules is a necessary requirement for participation in Board proceedings. As a matter of fairness to all parties, only those who are prepared to meet these obligations may participate in this docket. Accordingly, all parties are expected to familiarize themselves with these rules and to comply with them in full.

SO ORDERED.

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9 PSB Rule 2.201(B) (noting that a non-attorney representative is not subject to the requirement in PSB Rule 2.201(D) to obtain leave of the Board prior to withdrawing an appearance).
Dated at Montpelier, Vermont, this 23rd day of February, 2017.

James Volz

Margaret Cheney

Sarah Hofmann

PUBLIC SERVICE BOARD OF VERMONT

OFFICE OF THE CLERK

Filed: February 23, 2017

Attest: Judith C. Whitney
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@vermont.gov)
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Notice of appearance filed without motion to intervene.
Petition of Champlain VT, LLC, d/b/a TDI New England, for a certificate of public good, pursuant to 30 V.S.A. §248, authorizing the installation and operation of a high voltage direct current (HVDC) underwater and underground electric transmission line with a capacity of 1,000 MW, a converter station, and other associated facilities, to be located in Lake Champlain and in the Counties of Grand Isle, Chittenden, Addison, Rutland and Windsor, Vermont, to be known as the New England Clean Power Link Project (“NECPL”) (Docket #8400)

MOTION TO INTERVENE

CHITTENDEN COUNTY REGIONAL PLANNING COMMISSION

Now comes Chittenden County Regional Planning Commission (“CCRPC”), pursuant to Vermont Public Service Board (“Board”) Rule 2.209, hereby files the following Motion to Intervene. In support hereof, CCRPC states the following:

1. Petitioner seeks to develop a high voltage direct current (HVDC) underwater and underground electric transmission line with a capacity of 1,000 MW, a converter station, and other associated facilities, to be located in Lake Champlain and in the Counties of Grand Isle, Chittenden, Addison, Rutland, and Windsor, Vermont.

2. The CCRPC is a political entity that represents the needs of member municipalities and the region as a whole. CCRPC member municipalities affected by the project include the City of Burlington, Town of Charlotte, Town of Colchester, Town of Shelburne, and the City of South Burlington. In addition, the potential reconductoring of the transmission lines between Vermont Transco’s New Haven substation and the Williston substation may have significant impacts on the municipalities through which the transmission line traverses, including the...
Chittenden County municipalities of Hinesburg, St. George and Williston. Petitioner’s project will impact these municipalities in the CCRPC Region; therefore, the project will impact CCRPC as well. The CCRPC is uniquely interested in the project’s impact on the region’s economic interests.

3. Title 30, Section 248(b)(1), states that before the Public Service Board issues a certificate of public good with respect to an in-state facility, with respect to a transmission line subject to board review, the line 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.

4. CCRPC previously filed a Motion to Intervene on 1/13/17, citing a substantial interest in economic and environmental issues in the CCRPC region. This motion was denied by the Public Service Board in “Order Re: Motions to Intervene” (dated 2/23/17), which stated that “CCRPC's motion does not explain how it has a substantial interest in this Project, which is not located in Chittenden County” (emphasis added).

This is false. Page 2 of Exhibit VGLD-BR-4 is a map entitled “Vermont Green Line Lake Champlain Marine Centerline Overview Plan.” This map shows that, beginning in the segment labeled HVDC-VT-M-007 and continuing south to the landing site, the centerline of the proposed transmission line is located within Vermont. 24 VSA §5 defines the Chittenden County as its member municipalities and “so much of Lake Champlain as lies in this State west of the towns in the county adjoining the lake and not included within the limits of the County of Grand Isle.” Therefore, the project is located within Chittenden County, and the Board's denial of CCRPC’s motion to intervene on the grounds that the Project is not located in Chittenden County must be reconsidered.

Additionally, it should be noted that CCRPC was granted party status in the proceedings regarding TDI New England’s underwater transmission line, which followed a similar path through Lake Champlain (see Order Re: Intervention Requests, Docket #8400, 3/12/2015).

5. A person has the right to intervention, pursuant to Board Rule 2.209(A): “Upon timely application, a person shall be permitted to intervene in any proceeding (1) when a statute confers an unconditional right to intervene; (2) when a statute confers a conditional right to intervene and the condition or conditions are satisfied; or (3) when the applicant demonstrates a substantial interest which may be adversely affected by the outcome of the proceeding, where the proceeding affords the exclusive means by which the applicant can protect that interest and where the applicant's interest is not adequately represented by existing parties.” Id.

6. CCRPC has a substantial interest in economic issues in the CCRPC region and its particularized interests may be adversely affected by the outcome of this proceeding. CCRPC is particularly concerned about two economic issues:

   a. Whether Chittenden County lakefront municipalities (City of Burlington, Town of Charlotte, Town of Colchester, Town of Shelburne, and the City of South Burlington) will receive tax revenues from this project; and
b. The potential reconductoring of the transmission lines between Vermont Transco’s New
Haven substation and the Williston substation, which may have significant impacts on the
Chittenden County municipalities (Hinesburg, St. George and Williston) through which the
transmission line traverses.

7. CCRPC’s interests potentially diverge from the interests of the other parties and therefore
may not be adequately protected by other parties. CCRPC’s unique interests within its
jurisdictional boundaries cannot be protected unless it directly participates in this proceeding.
Further, CCRPC represents its member municipalities and their interests, which are not
protected by any other parties in this case.

8. There are no alternative means by which CCRPC’s interests can be protected as they relate to
this matter.

9. Intervention will not unduly delay the proceeding or prejudice the interests of existing parties
or the public.

WHEREFORE, the Chittenden County Regional Planning Commission respectfully requests that the
Board grant its Motion to Intervene pursuant to Board Rule 2.209(A), or in the alternative, Board
Rule 2.209(B).

Dated at Winooski, Vermont this 9th day of March, 2017.

Chittenden County Regional Planning Commission

By: ______________________

Charlie Baker
Executive Director
Chittenden Cty. Regional Planning Commission
110 West Canal Street, Suite 202
Winooski, VT 05404
INFORMATION REQUESTS SERVED UPON PETITIONER BY THE
CHITTENDEN COUNTY REGIONAL PLANNING COMMISSION

The Chittenden County Regional Planning Commission (“CCRPC”) by: Charlie Baker, Executive Director, Regina Mahony, Planning Program Manager, and Emily Nosse-Leirer, Planner, hereby serves the following set of Information Requests upon the Petitioner in this matter in accordance with Public Service Board (“Board”) Rule 2.214 and V.R.C.P. 33 and 34, and requests that Petitioner answer the requests in accordance with V.R.C.P. 33 and 34 and deliver its answers and all requested documents and materials to the CCRPC via email not later than April 7, 2017. Petitioner is requested to provide a copy of its answers in electronic format, that is, in Word or .pdf format.

INSTRUCTIONS

1. Reproduce the request being responded to before the response per V.R.C.P. 33.

2. Responses to any and all CCRPC requests that are contained herein or that may be filed later should be supplied to the CCRPC as soon as they become available to Petitioner. That is, Petitioner should not hold answers to any requests for which they have responsive data, documents, etc. until responses to any or all other requests are compiled.

3. V.R.C.P. 33 requires the response to each request to be made under oath by a person competent to testify concerning the response and all documents and exhibits produced as part of the response. With respect to each request, please state (1) the name(s) and title(s) of the person or persons responsible for preparing the response; and (2) the administrative unit which maintains the records being produced or maintains the data from which the answer was prepared; and (3) the date on which each question was answered.

4. Where information requested is not available in the precise form described in the question or is not available for all years (or other periods or classifications) indicated in a series of years (or other periods or classifications), please provide all information with respect to the subject matter of the question that can be identified in Petitioner’s workpapers and files or that is otherwise available.

5. These requests shall be deemed continuing and must be supplemented in accordance with V.R.C.P. 26(e). Petitioner is directed to change, supplement and correct its answers to conform to all information as it becomes available to Petitioner, including the substitution of actual data for estimated data. Responses to requests for information covering a period not entirely in the
past (or for which complete actual data are not yet available) should include all actual data available at that time and supplementary data as it becomes available.

6. Wherever responses include estimated information, include an explanation (or reference to a previous explanation) of the methods and calculations used to derive the estimates.

7. Some of the CCRPC's requests may make particular reference to a portion of Petitioner’s filing. Notwithstanding this specific direction, these items should be understood to seek discovery of all information available to Petitioner that is responsive to the questions stated.

8. “Identify,” when used in connection with natural person(s) or legal entities, shall mean the full name and current business address of the person or entity.

9. “Document,” as used herein, shall be construed as broadly as possible to include any and all means and media by which information can be recorded, transmitted, stored, retrieved or memorialized in any form, and shall also include all drafts, versions or copies which differ in any respect from the original. All spreadsheets provided must have all formulae intact and accessible.

10. “Petition,” as used herein, means Petitioner’s petition filed with the Vermont Public Service Board in this docket, unless the context indicates otherwise.

11. With respect to each document produced by Petitioner, identify the person who prepared the document and the date on which the document was prepared.

12. If any interrogatory or request requires a response that Petitioner believe to be privileged, please state the complete legal and factual basis for the claim of privilege, provide the information required by the 5/16/95 order in Docket No. 5771 and respond to the parts of the interrogatory or request as to which no privilege is asserted.

13. If any interrogatory or request is objected to in whole or in part, please describe the complete legal and factual basis for the objection, and respond to all parts of the interrogatory or request to the extent it is not objected to. If an objection is interposed as to any requested documents, please identify the document by author, title, date and recipient(s), and generally describe the nature and subject-matter of the document as well as the complete legal and factual basis for the objection.

14. To expedite the discovery process and the resolution of this docket, Petitioner should contact CCRPC as soon as possible, and prior to the above deadline for response, if it seeks clarification on any of these information requests.

15. CCRPC reserves the right to submit additional information requests to Petitioner.
INTERROGATORIES AND REQUESTS TO PRODUCE

Economic Interests

1. ISO New England in their letter to Hantz Presume, dated December 28, 2016, noted that the Reliability Committee “did not identify a significant adverse effect on the reliability or operation characteristics” from this transmission line. However, this included VELCO-16-T18 as part of the project. VELCO-16-T18 is the reconductoring of the 115Kv transmission lines between New Haven and Williston. This reconductoring may have significant impacts on the CCRPC member communities of Hinesburg, St. George and Williston. Is this reconductoring necessary for system stability and reliability, and will more details on the scope and impacts of the reconductoring be provided so that CCRPC may evaluate and comment on the impacts of the reconductoring to the region?

Dated at Winooski, Vermont this 9th day of March, 2017.

Chittenden County Regional Planning Commission

Charlie Baker
Executive Director
Chittenden County Regional Planning Commission
110 West Canal Street, Suite 202
Winooski, VT 05404

cc: Parties