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SENT VIA OVERNIGHT DELIVERY

September 15, 2014

FEDERAL TRADE COMMISSION
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SEP 16th 2014

COMMISSIONER BRILL

James A. Kohm
Associate Director, Enforcement Division
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, D.C. 20580

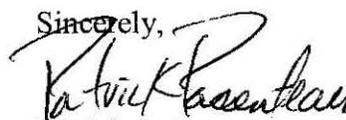
Julie Brill
Commissioner
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

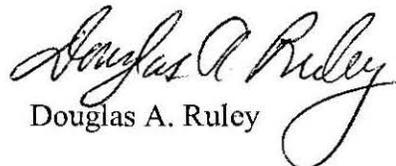
Re: Petition Regarding Deceptive Marketing Practices Of Green Mountain Power in the Marketing of Renewable Energy to Vermont Consumers

Dear Mr. Kohm and Ms. Brill:

Enclosed is the captioned Petition being filed today. We appreciate your careful review of this Petition. Please direct any questions to the undersigned.

Sincerely,


Patrick A. Parenteau


Douglas A. Ruley

BEFORE THE FEDERAL TRADE COMMISSION
Washington, DC 20580

PETITION TO INVESTIGATE DECEPTIVE TRADE PRACTICES
OF GREEN MOUNTAIN POWER COMPANY
IN THE MARKETING OF RENEWABLE ENERGY
TO VERMONT CONSUMERS

I. INTRODUCTION

Pursuant to section 5 (a) of the Federal Trade Commission Act (FTCA), 15 U.S.C. § 45, Bruce Post, Curt McCormack, Charles Johnson and Kevin Jones (“Petitioners”) request that the Federal Trade Commission (“Commission”) initiate an investigation and take appropriate enforcement action in relation to certain deceptive trade practices by Green Mountain Power Corporation (“GMP”) that, as described more fully below, are misleading and harming Vermont electricity consumers.

GMP is representing to its customers and to the public, through its promotional materials, public statements, and other communications that it is providing its customers with electricity from renewable sources such as commercial wind and solar projects, thereby reducing the customer’s carbon footprint and protecting the environment. In fact, however, GMP is selling substantially all of the Renewable Energy Credits (RECs) generated by these sources to out of state utilities in satisfaction of those utilities legal obligations to meet mandatory Renewable Portfolio Standards (RPS) in nearby states such as Massachusetts and Connecticut. The net result is that Vermont customers are being misled into thinking that they are buying “renewable energy,” when in fact what they are getting is “null” electricity consisting of a mix of fossil fuel, nuclear, gas and other “brown” sources of electricity from the regional grid.

Petitioner seeks a determination that this practice is deceptive. The common-sense rule is that if you sell the credit you cannot claim the credit. The only way that GMP can honestly claim that its electricity is renewable is to retire the RECs.

II. PARTIES

A. Petitioners.

1. Bruce Post, a resident of Essex, Vermont, has worked for U.S. Senator Robert T. Stafford, Congressman Jim Jeffords, U.S. Rep. John B. Anderson, U.S. Senator Hubert H. Humphrey and Vermont's Governor Richard A. Snelling. An accomplished writer and speaker, Mr. Post created and directed *Riding the Winds of Change: A Primer in Political Action*, former winner of the National Education Association's best political action video. Mr. Post currently serves as chair to the State Board of Libraries and is on the board of the Rokeby Museum and Channel 17 community television.
2. Curt McCormack has served in the Vermont legislature for fourteen years. He has chaired the Joint Energy and Natural Resources Committees and has served as the Vice Chair of the National Conference of State Legislatures Environmental Committee. Mr. McCormack also has worked on sustainable energy in the private sector; as the owner of a small business he focused on sustainable energy best practices. After implementing a world-renowned solid waste facility in Senegal with the Peace Corps, Mr. McCormack has continued to do international environmental consulting, working with organizations like USAID, the Peace Corps and other NGOs. Mr. McCormack is a resident of Burlington.

3. Charles W. Johnson is a Doctor of Science who has served for many years as the Vermont State Naturalist. Following his position as a Park Ranger in the North East Kingdom, Mr. Johnson began to publish on the topic of Vermont's environment. Johnson's first book, *The Nature of Vermont: Introduction and Guide to a New England Environment*, gives a picture of the natural environment in each of Vermont's State Parks and how the entire state's natural world emerged. As assistant to the commissioner for the Department of Forests, Parks and Recreation, he has helped protect Vermont's high ecological value areas as well as maintaining important corridors for wildlife.
4. Kevin Jones resides in Chittenden, Vermont. He is Professor of Energy Technology and Policy at Vermont Law School. He also has worked as the Director of Power Market Policy for the Long Island Power Authority, Associate Director in the Energy Practice of Navigant Consulting, and as the Director of Energy Policy for the City of New York. He previously served as the Deputy to former Vermont State Auditor Edward Flanagan, is a former four-term Alderman with the City of Rutland, and began his energy career with Central Vermont Public Service Corporation. The views expressed here are his own.

B. GMP

GMP is a wholly owned subsidiary of Northern New England Energy Corporation, providing retail electricity to approximately 260,000 customers.¹ GMP merged with Central Vermont Public Service Corporation in 2012, becoming Vermont's largest electric utility, and

¹ FERC Form No. 1 - Quarter 3 123.1 (Nov. 29, 2013), available at <http://www.greenmountainpower.com/corporate-info/index/financials/>.

the state's only investor-owned electric utility. Its headquarters are located at 163 Acorn Lane, Colchester, VT 05446.

III. BACKGROUND

GMP is actively involved in developing wind and solar projects in Vermont. GMP owns Kingdom Community Wind, a 63 MW plant in Lowell, and a 6 MW wind facility in Searsburg. GMP is also engaged in several "community" solar projects in Rutland County.

GMP sells the RECs² from these projects to lower the costs to its customers.³ Data submitted to the Vermont Public Service Board shows that from 2010-12 approximately 90 percent of RECs were sold to utilities in Massachusetts and Connecticut. (**Exhibit 1**). According to company spokespersons, GMP has sold \$22 million in RECs to date.⁴

At the same time, GMP counts these same credits towards meeting the goals of Vermont's Sustainably Priced Energy Enterprise Development (SPEED) law of 2005.⁵ SPEED projects are electric generating projects that produce renewable energy. SPEED is a voluntary program that does not establish mandatory RPS requirements, although utilities not meeting the SPEED goals could trigger an administrative process to set mandatory goals.

Recently this "double counting" has come under fire. On January 1, 2014 the State of Connecticut banned the use of RECs to meet Connecticut's mandatory RPS requirements from renewable generation that also is counted toward another state's renewable goals such as the

² One REC represents the environmental attributes (e.g., avoided emissions) of 1 megawatt-hour (1 MWh) of renewable energy. RECs can be sold separately from the actual electricity produced by a wind farm or other renewable energy facility.

³ *GMP Wind Power Frequently Asked Questions*, Green Mountain Power, <http://www.greenmountainpower.com/innovative/wind/faqs/> (last visited Sept. 5, 2014).

⁴ John Herrick, *Electricity supplier won't buy Vermont renewable energy credits*, VT Digger (May 19, 2014, 7:07 PM), <http://vtdigger.org/2014/05/19/electricity-supplier-wont-buy-vermont-renewable-energy-credits/>.

⁵ See 30 V.S.A. § 8005(d) (establishing SPEED goals and objectives); see also Vermont Public Service Board Rules, Sustainably Priced Energy Enterprise Development Program, 18-1-12 Vt. Code R. §§ 4.301-4.319, available at http://www.state.vt.us/psb/rules/OfficialAdoptedRules/4300_SPEED.pdf.

Vermont SPEED program.⁶ This prompted Next Era Energy, a \$15 billion North American company that purchases and sells RECs, to notify sellers of RECs in the New England Power Pool that it will no longer trade Vermont's renewable energy credits.⁷ In a letter dated May 14, 2014 NextEra stated: "It is a fundamental principle of all renewable energy market sales that the environmental characteristics associated with the electric energy generated cannot be counted or claimed twice."⁸ Further, on June 6, 2014 the Connecticut Public Utilities Regularity Authority established a Working Group "to engage in a process to clarify the treatment of Vermont SPEED RECs under the Connecticut RPS and broader application to other potential double-counting situations."⁹ PURA has opened an electronic docket (No. 14-05-36) calling for public comments on a series of questions including whether the practice of selling RECs to Connecticut utilities while at the same time claiming those credits under the Vermont SPEED program are in compliance with this Commission's Green Guides.

IV. JURISDICTIONAL STATEMENT

The FTCA empowers and directs the Commission to prevent "persons, partnerships or corporations" from using "unfair or deceptive acts or practices in or affecting commerce."¹⁰ GMP is a "corporation" engaged in "commerce" as defined by the FTCA and is therefore subject to the Commission's jurisdiction.¹¹ The FTCA also empowers and directs the Commission "to

⁶ 2013 Conn. Acts Public Act 13-303 An Act Concerning Connecticut's Clean Energy Goals, 2013 Conn. Legis. Serv. P.A. 13-303 (S.B. 1138) (West) (amending Conn. Gen. Stat. §16-1(a)(26))

⁷ Letter from Lawrence Silverstein, Senior Vice Pres. & Managing Director, NextEra Energy Power Marketing, LLC, to NEPOOL REC Sellers (May 15, 2014), *available at* <http://s3.documentcloud.org/documents/1164899/vtspeedltrtonepoolrecsellers4-15-14.pdf>

⁸ *Id.*

⁹ State of Connecticut Public Utilities Regulatory Authority, Docket No. 14-05-36, Notice of Proceeding and Request for Comments 3 (June 5, 2014), *available at* [http://www.dpuc.state.ct.us/dockcurr.nsf/\(Web+Main+View/All+Dockets\)?OpenView&StartKey=14-05-36](http://www.dpuc.state.ct.us/dockcurr.nsf/(Web+Main+View/All+Dockets)?OpenView&StartKey=14-05-36).

¹⁰ 15 U.S.C. § 45(a).

¹¹ "Corporation" is broadly defined to include "any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, which is organized to carry on business for its own profit or that of its members, and has shares of capital or capital stock or certificates of interest." The term "commerce" means "commerce among the states or with foreign nations." 15 U.S.C. § 44.

gather and compile information concerning, and to investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce [except banks]”¹² Further, the Act provides: “Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any *** unfair or deceptive act or practice in or affecting commerce, and if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint.”¹³ Petitioners request that the Commission exercise this authority for the following reasons.

V. GMP’s MARKETING PRACTICES VIOLATE THE FTCA BECAUSE THEY ARE LIKELY TO MISLEAD CONSUMERS ACTING REASONABLY UNDER THE CIRCUMSTANCES AND CAUSE MATERIAL HARM TO THE CONSUMER.

In evaluating claims of deception the Commission follows its 1983 *Policy Statement on Deception*,¹⁴ (“Deception Policy”) which sets forth a three-part test for deception.¹⁵ First, there must be a representation, omission or practice that is likely to mislead the consumer.¹⁶ A misrepresentation is an express or implied statement contrary to fact. In some circumstances the failure to qualify statements or practices can be misleading. In determining whether such an omission is deceptive the Commission will examine the overall impression created by the

¹² 15 U.S.C. § 46.

¹³ *Id.* § 45(b).

¹⁴ John D. Dingell, Federal Trade Commission, *FTC Policy Statement on Deception 1* (October 14, 1983), available at http://www.ftc.gov/sites/default/files/attachments/training-materials/policy_deception.pdf.

¹⁵ *Cliffdale Associates*, 103 F.T.C. 110 (1984) (“the Commission will find an act or practice deceptive if, first, there is a representation, omission, or practice that, second, is likely to mislead consumers acting reasonably under the circumstances, and third, the representation, omission, or practice is material.”).

¹⁶ Dingell, *supra* note 13, at 1.

practice, claim or representation.¹⁷ Omissions may also be deceptive where the representations made are not literally misleading but create a reasonable expectation or belief among consumers which is misleading absent the qualifying statements.

Second, the act or practice must be considered from the perspective of the reasonable consumer. The test is whether the consumer's interpretation or reaction is reasonable.¹⁸ In evaluating a particular practice the Commission considers the totality of the practice—"the entire mosaic rather than each tile separately"¹⁹—in determining how reasonable consumers are likely to respond. When a company's representation conveys more than one meaning to a reasonable consumer, one of which is false, the seller is liable for the misleading interpretation.²⁰ An interpretation is presumed reasonable if it is the one the seller intended to convey.

Third, the representation, omission or practice must be "material." A material misrepresentation or practice is one which is likely to affect a consumer's choice of or conduct regarding a product or service. In cases of express claims materiality is presumed. As the Supreme Court has said, "[i]n the absence of factors that would distort the decision to advertise, we may assume that the willingness of a business to promote its products reflects a belief that consumers are interested in the advertising."²¹ As the Deception Policy states: "Where the seller knew, or should have known, that an ordinary consumer would need omitted information to evaluate the product or service, or that the claim was false, materiality will be presumed because the manufacturer intended the information or omission to have an effect."²²

Each of these tests is discussed in turn.

¹⁷ *Id.* at 8 n.4; see also *ITT Continental Baking Co. Inc.* 83 F.T.C. 865, 965 (1976).

¹⁸ A material practice that misleads a significant minority of reasonable consumers is deceptive. See *Heinz W. Kirchner*, 63 F.T.C. 1282 (1963).

¹⁹ *Fed. Trade Comm'n v. Sterling Drug*, 317 F.2d 669, 674 (2d Cir. 1963).

²⁰ *National Comm'n on Egg Nutrition*, 88 F.T.C. 89, 185 (1976), enforced in part, 570 F.2d 157 (7th Cir. 1977); *Jay Norris Corp.*, 91 F.T.C. 751, 836 (1978), *aff'd*, 598 F.2d 1244 (2d Cir. 1979).

²¹ *Cent. Hudson Gas & Elec. Co. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557, 567 (1980).

²² Dingell, *supra* note 13, at 7.

- A. GMP is misleading Vermont consumers through both affirmative misrepresentations of the source of the electricity it sells and its failure to disclose that by selling RECs it is stripping the electricity of any environmental attributes.

In 2012 the Commission updated the *Guides for the Use of Environmental Marketing Claims* (“Green Guides” or “Guides”) and added a specific provision dealing with renewable energy claims.²³ The Guides do not confer any rights on any person and do not operate to bind the Commission or the public.²⁴ However, the Commission may take action under the FTCA if a marketer makes an environmental claim inconsistent with the Guides.²⁵ In short, the Guides provide substantive principles and specific examples of practices that are considered deceptive as well as non-deceptive.

The Green Guides apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service to individuals.²⁶ The Guides are based on marketing to a general audience.²⁷ However, when a marketer targets a particular segment of consumers, the Commission will examine how reasonable members of that group interpret the advertisement.²⁸ This is relevant to this petition because GMP is directing its renewable energy marketing messages to Vermont customers who are most concerned about the environmental impacts of their energy usage and, in particular, the climate change implications of relying on fossil fuels to generate electricity. GMP’s marketing strategy targets Vermonters who are concerned about their carbon footprint. This becomes important in considering the effect that GMP’s claims about its renewable energy service have upon this informed and concerned segment of its customer base.

²³ Guides for the Use of Environmental Marketing Claims, 77 Fed. Reg. 62,122, 62,124 (Oct. 11, 2012) (codified at 16 C.F.R. § 260.15) [hereinafter “Green Guides”].

²⁴ *Id.* at 62,124.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

The Green Guides contain a new provision dealing specifically with “Renewable Energy Claims.” In relevant part it states:

If a marketer generates renewable electricity but sells renewable energy certificates for all of that electricity, it would be deceptive for the marketer to represent, directly or by implication, that it uses renewable energy.²⁹

To illustrate how this principle should be applied the Guides cite the following example of a manufacturer using solar panels:

A toy manufacturer places solar panels on the roof of its plant to generate power, and advertises that its plant is ‘100% solar-powered.’ The manufacturer, however, sells renewable energy certificates based on the renewable attributes of all the power it generates. Even if the manufacturer uses the electricity generated by the solar panels, it has, by selling renewable energy certificates, transferred the right to characterize that electricity as renewable. The manufacturer’s claim is therefore deceptive.³⁰

During the comment period on the proposed Guides, questions were raised about how this principle would be applied in the case of generation claims by power producers who, like GMP, generate renewable energy as a substantial portion of their business. In the *Statement of Basis and Purpose*³¹ accompanying publication of the final Green Guides, the Commission declined to provide specific guidance because it lacked “consumer perception data” regarding such claims. However the Commission provided this additional clarification:

[P]ower providers that sell null electricity to their customers, but sell RECs based on that electricity to another party, should keep in mind that their customers may mistakenly believe the electricity they purchase is renewable. Accordingly, the Commission advises such generators to exercise caution and qualify claims about their generation by disclosing that their electricity is not renewable.³²

²⁹ 16 C.F.R. § 260.15(d).

³⁰ *Id.* The example goes on to explain: “[i]t also would be deceptive for this manufacturer to advertise that it ‘hosts’ a renewable power facility because reasonable consumers likely interpret this claim to mean that the manufacturer uses renewable energy. It would not be deceptive, however, for the manufacturer to advertise, ‘We generate renewable energy, but sell all of it to others.’” This advice applies with equal force to GMP in its representations to its customers.

³¹ Fed. Trade Comm’n, *The Green Guides: Statement of Basis and Purpose* (2012), available at <http://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguidesstatement.pdf>.

³² *Id.* at 224–25.

This example captures exactly what GMP is doing. GMP is claiming to provide renewable energy to its customers without disclosing the fact that it is selling substantially all of the RECs thereby stripping the electricity of its green environmental attributes.³³ The only way that GMP could claim to be providing renewable energy would be to retire the RECs. By not being straight with its customers, GMP is denying them the opportunity to look for other genuine sources of renewable energy or, alternatively, to purchase cheaper energy with similar environmental attributes to what GMP is actually selling them. This is discussed further below.

B. GMP's representations and omissions are likely to mislead consumers acting reasonably under the circumstances because they are intended to attract environmentally conscious consumers who think they are getting something they are not.

An interpretation is reasonable even though it is not shared by a majority of consumers in the relevant class, or by particularly sophisticated consumers.³⁴ In the case of express claims, the representation itself establishes the meaning. In the case of implied claims and deception by omission, the meaning may be determined from the representation itself, including evaluation of such factors as the entire document, the juxtaposition of various phrases in the document, the nature of the claim, and the nature of the transactions.³⁵

This is not a case of an isolated statement or an inadvertent slip of the tongue. GMP is aware of what it is doing, as indicated by this testimony regarding the Kingdom Community Wind project before the Public Service Board in 2010:

I observe that the current SPEED construct of selling RECs (thereby minimizing retail electric rates) is in tension with other Vermont goals regarding air emissions

³³ In testimony before the Vermont Public Service Board GMP's witness stated: "GMP expects that absent a change in Vermont law, it will sell most or all of the 17 Projects' RECs to entities in neighboring states that will ultimately retire them for compliance with RPS requirements. For context, GMP presently sells most of the RECs associated with its premium renewable sources in this manner." Prefiled direct testimony of Douglas C. Smith on behalf of Green Mountain Power Company, redacted version (May 21, 2010). See **Exhibit 2**.

³⁴ *Heinz W. Kirchner*, 63 F.T.C. 1282 (1963).

³⁵ Dingell, *supra* note 13, at 4.

and reduction of greenhouse gas emissions. Specifically, to the extent that Vermont utilities sell the RECs associated with renewable sources like the Project [Kingdom Community Wind], **they are no longer able to claim those sources' renewable content and their low/zero emission profile.**³⁶

Despite this candid acknowledgement under oath, GMP is in fact marketing electricity from the Kingdom Wind Project and others as “renewable energy” with “low/zero emissions.”

The following thirteen statements provide a detailed picture of how Vermont consumers are misled by GMP’s express and implied representations as well as by its omission of clarifying information regarding the true character of the “renewable energy” it is selling.

The first three statements were made jointly by GMP and its partner the Vermont Electric Cooperative and concern electricity generated by the Kingdom Community Wind (“KCW”) Project, a 21-turbine project which first came on-line in 2012. Each statement falsely implies that all of the electricity provided to the customers from the project is renewable when in fact substantially all of the RECs from this project will be sold out of state.

- (1) “Where does the power go? All of the energy is used by GMP and VEC customers.”³⁷

Analysis: False. Electricity generated by the KCW project, like any other generation facility, goes into an integrated regional grid and is dispatched to various load centers based on operational criteria set by ISO New England. It is a pool of electrons that flow in many directions at different times of the day, month, and year. There is no way to trace these electrons to a specific end user. The only legitimate way to claim that energy from this wind project is “renewable” would be for GMP to retire the RECs for each of the MWhs generated. Instead, as GMP has acknowledged in the regulatory process, it sells substantially all of the RECs from premium renewables such as KCW.

³⁶ Douglas C. Smith, Pre-filed Testimony before the Vermont Public Service Board 26 (May 21, 2010) (emphasis added). See **Exhibit 2**.

³⁷ Green Mountain Power & Vermont Electric Cooperative, *Kingdom Community Wind Fact Sheet* (Sept. 2013). See **Exhibit 3**.

- (2) “Will the power stay in Vermont? YES! Every single kilowatt hour of electricity will be used by Green Mountain Power and Vermont Electric Cooperative customers. Refer to page 4 to learn about the Renewable Energy Credits (REC).”³⁸

Analysis: False as explained above.

- (3) “One thing we know is important to nearby residents is that every kWh of energy produced by Kingdom Community Wind is used by members of Vermont Electric Coop and Green Mountain Power customers.”³⁹

Analysis: False as discussed above.

The following ten statements were made about electricity generated from wind projects Kingdom Community Wind and Searsburg Wind, as well as solar projects in the cities of Rutland and Berlin. All are expressly or impliedly misleading.

- (4) “A maximum of 21 turbines will be installed, generating enough electricity for approximately 20,000 Vermont residents. All the power generated will stay in Vermont for the benefit of Vermont Electric Co-op members and Green Mountain Power customers.”⁴⁰

Analysis: False as discussed above with the addition of the misleading claim that the project is “low carbon.” This letter to the editor published in a statewide newspaper fails to explain that, due to the sale of the RECs, the power will not be low-carbon for Vermont customers. In fact the sale of the RECs means that Vermont’s carbon footprint

³⁸ Green Mountain Power & Vermont Electric Cooperative, *Answers to Commonly Asked Questions about Kingdom Community Wind 1* (Feb. 2013), available at http://www.greenmountainpower.com/upload/photos/236KCW_QA_Feb_2013_FINAL.pdf. See **Exhibit 4**.

³⁹ Letter from Mary Powell, Green Mountain Power, & Dave Hallquist, Vermont Electric Cooperative, to neighbors of Kingdom Community Wind Project (Feb. 2013). See **Exhibit 5**.

⁴⁰ Robert Dostis, Director of External Affairs & Customer Relations with Green Mountain Power, *Wind Project Low Cost, Low Carbon*, Sunday Rutland Herald and Times Argus (Jan. 9, 2011). See **Exhibit 6**.

will increase because with the sale of the RECs it is effectively importing “brown” power from the regional grid which contains large amounts of fossil fuel.⁴¹

- (5) “Kingdom Community Wind means clean renewable energy built in Vermont for Vermonters.”⁴²

Analysis: Explicitly misleading, given the sale of the RECs.

- (6) “GMP is committed to encouraging the development of new renewable energy sources. As part of that goal, GMP has made a serious investment in developing wind power as a component of its energy supply. Two examples of that investment can be seen in our Searsburg Wind Facility, and the Kingdom Community Wind project in Lowell, Vermont.”⁴³

Analysis: This statement misleads by failing to explain that the “renewable” attributes of the project have been sold and Vermonters are actually getting nonrenewable, high carbon attributes associated with the “residual mix” of electricity on the New England grid.

- (7) “GMP customers consistently tell us they expect clean, green, cost-effective energy. We are so proud to be able to deliver on that and at the same time keep costs down, maintain world-class customer service, and provide ongoing support to these five towns.”⁴⁴

Analysis: Underscores the point that GMP is targeting environmentally conscious customers and misleading them by claiming the electricity they are getting is renewable, when in fact that electricity is not renewable because the RECs have been sold.

⁴¹ During summer peak demand, 85% of the electricity in New England comes from gas, coal, oil and nuclear plants. ISO New England, *2014 Regional Energy Outlook 14* (2014), available at http://www.iso-ne.com/aboutiso/fin/annl_reports/2000/2014_reo.pdf.

⁴² Dostis, *supra* note 39. See **Exhibit 6**.

⁴³ *About Wind Power*, Green Mountain Power, <http://www.greenmountainpower.com/innovative/wind/> (last visited Sept. 8, 2014). See **Exhibit 7**.

⁴⁴ *Kingdom Community Wind Delivers for Vermont*, Green Mountain Power (January 23, 2014) (statement of GMP President Mary Powell), available at <http://news.greenmountainpower.com/press-releases/kingdom-community-wind-delivers-for-vermonters-1084265?feed=d51ec270-a483-4f6c-a55e-8e5f8e2238c2>. See **Exhibit 8**.

- (8) “Upon merging with CVPS, GMP Solar Power added a significant amount of solar power generation to its resources. Included in that addition is the 264-panel array along one of Vermont’s busiest highways, Route 7 in Rutland Town. Combined with our Berlin Solar Plant, this array doesn’t just help to cleanly power Vermont, but serves as a working classroom for students and others interested in homegrown, emissions-free energy.”⁴⁵

Analysis: Impliedly misleads by stating that the project will “cleanly power Vermont” when the RECs are sold out of state for the benefit of utility customers in those states.

- (9) “The project is part of GMP’s plan to create and inspire construction of enough solar to provide Rutland with the highest solar reliance per capita of any city in the northeast.”⁴⁶

Analysis: This statement is expressly misleading because with the sale of RECs from this project, Rutland customers do not purchase the solar energy. By suggesting that Rutland will have the “highest solar reliance per capita” GMP implies that its Rutland customers are consuming this renewable energy when in fact that is not the case.

- (10) “We have always believed that this wind resource would provide a clean, cost-effective energy resource for Vermonters, and this upgrade is helping us achieve that goal.”⁴⁷

Analysis: Cost effective, maybe; “clean,” no. The clean attributes have been sold.

- (11) “At six cents per kilowatt hour, GMP Searsburg wind has been a cost-effective way for us to provide our customers with renewable energy.”⁴⁸

⁴⁵ *About Solar Power*, Green Mountain Power, <http://www.greenmountainpower.com/innovative/solar/> (last visited Sept. 8, 2014) See **Exhibit 9**.

⁴⁶ *Creek Path Solar Farm*, Green Mountain Power, http://www.greenmountainpower.com/innovative/solar_capital/creek-path-solar-farm-/ (last visited Sept. 8, 2014) See **Exhibit 10**.

⁴⁷ *Power Line Upgrade Leads to Dramatic Increase in Cost-Effective Energy from GMP’s Kingdom Community Wind Facility*, Green Mountain Power (Sept. 20, 2013) (comment by GMP spokesperson Dorothy Schnure), <http://news.greenmountainpower.com/manual-releases/2013/POWER-LINE-UPGRADE-LEADS-TO-DRAMATIC-INCREASE-IN-C?feed=d51ec270-a483-4f6c-a55e-8e5fbe2238c2>. See **Exhibit 11**.

Analysis: Same as above.

- (12) “This project [KCW] is an important part of Green Mountain Power’s strategy to provide its customers with long-term, stably priced renewable energy.”⁴⁹

Analysis: Again, KCW is not providing Vermonters with “renewable energy” due to sale of the RECs.

- (13) “If approved, Kingdom Community Wind will be the largest permitted project in Vermont and generate enough electricity for 20,000 Vermont homes.”⁵⁰

Analysis: This opinion piece by GMP’s President and CEO was published in a statewide newspaper and is misleading for the reasons already discussed.

C. GMP’s deceptive practices are material and harmful to Vermont consumers.

As the Deception Policy states: “Where the seller knew, or should have known, that an ordinary consumer would need omitted information to evaluate the product or service, or that the claim was false, materiality will be presumed because the manufacturer intended the information or omission to have an effect.”⁵¹ Such is the case with GMP’s practices. The honest representation of a product or service becomes all the more important when the product or service cannot be differentiated at the point of its consumption. Green claims in general are difficult for consumers to verify because consumers are largely incapable of testing them.⁵²

⁴⁸ *GMP Searsburg Wind Plant Has Banner Year*, Green Mountain Power (Mar. 10, 2011) (statement of Mary Powell, GMP CEO), <http://news.greenmountainpower.com/press-releases/GMP-Searsburg-Wind-Plant-Has-Banner-Year-0731148>. See **Exhibit 12**.

⁴⁹ *Lowell Hearings End*, Caledonian-Record (March 4, 2011) (comment by GMP spokesperson Dorothy Schnure). See **Exhibit 13**.

⁵⁰ Mary Powell, *Low-Cost, Low-Carbon, Reliable*, Sunday Rutland Herald Times Argus (Dec. 26, 2010) See **Exhibit 14**.

⁵¹ Dingell, *supra* note 13, at 7.

⁵² See Kelly Crandall, *Trust and the Green Consumer: The Fight for Accountability in Renewable Energy Credits*, 81 U. Colo. L. Rev. 893, 905, 940 (2010).

Green products are essentially “credence goods” about which consumers must rely on the marketers’ own claims when deciding whether to purchase the product.⁵³

The nature of electricity complicates this problem: once generated, the electrons flow into a common pool resource that cannot be traced to its end use, and consumers cannot tell when they turn on the light where the electricity comes from. Therefore, the presence of generator attribute tracking systems, as exist in New England and other regions, and the appropriate retirement of RECs, in support of regulatory mandates or green claims, is essential to maintaining consumer confidence in their energy purchasing decisions.

When presented with the statement, “I care about use of renewable energy sources,” forty-five percent of consumers in the Northeast agreed completely with that statement and eighty-two percent of consumers in the Northeast agreed with it completely or somewhat.⁵⁴ If given the choice many Vermont customers would choose to pay more for renewable energy that actually reduced carbon emissions. Consumer research supports this conclusion. Twenty five percent (25%) of consumers surveyed in the Northeast would pay five to twenty dollars extra each month to have some power for their home come from a renewable source.⁵⁵

GMP’s customers have choices when it comes to buying energy. First, customers concerned about the environmental effects of electric generation have the option to conserve rather than consume electricity if they believe that the consumption of electricity is harmful to the environment. Clearly GMP’s public representation about the source and environmental attributes of its energy purchases is intended to make GMP customers feel positive about the environmental attributes of its generation resources. A more positive feeling about the

⁵³ John M. Church, *A Market Solution to Green Marketing: Some Lessons from the Economics of Information*, 79 Minn. L. Rev. 245, 273–74 (1994).

⁵⁴ Natural Marketing Institute, *Consumer Attitudes About Renewable Energy: Trends and Regional Differences 6* (April 2011), available at <http://apps3.eere.energy.gov/greenpower/pdfs/50988.pdf>. See **Exhibit 15**.

⁵⁵ *Id.* at 19.

environmental impacts associated with the source of electricity generation will over time lead more customers to choose increased electricity consumption over conservation.

Similarly, customers have the option to generate some or all of their own energy from net-metered grid-connected options for solar and wind as well as off-the-grid alternatives. GMP's misleading claims that it is providing customers with renewable energy has the effect of discouraging them from making their own investment in net-metered or off-grid sources of renewable energy.

Additionally, GMP competes with other more traditional sources of fuels across Vermont such as wood, propane, and petroleum products. Vermonters in choosing their fuel source for home heating or transportation are likely to factor in both cost and environmental impact. When GMP makes statements about its supply resources implying that they are more renewable and lower carbon than they are in fact, it is reasonable to expect that some customers will respond to these misleading claims by choosing to use more electricity rather than choosing wood or fossil fuels.

Recently GMP has begun promoting the environmental benefits of using electric cold climate heat pumps for space and water heating.⁵⁶ This is further evidence that GMP understands the value of labeling its energy system "green." It provides a competitive advantage in GMP's service area.

GMP directly benefits from these misrepresentations by encouraging their customers to consume more electricity than they would if clearly presented with the facts about its source and environmental attributes. Vermont customers are harmed when they are denied accurate information about the renewable or low carbon nature of GMP's electric supply resources. With

⁵⁶ *Cold Climate Heat Pump Rental Program*, Green Mountain Power, <http://www.greenmountainpower.com/customers/heat-pump-rental/cold-climate-heat-pump-rental-program/> (last visited Sept. 8, 2014).

accurate information they may choose to invest in energy efficiency, more cost effective traditional fuels like wood or propane, or even in their own renewable generation under Vermont's net metering program.⁵⁷

VI. GMP'S ARGUMENT THAT IT IS NOT SUBJECT TO FTC JURISDICTION AND IS NOT OBLIGATED TO COMPLY WITH THE DECEPTION POLICY OR GREEN GUIDES IS WRONG AS A MATTER OF LAW AND TROUBLING AS A MATTER OF POLICY

In December 2102 the Vermont Public Service Board convened a workshop to take comments on its draft "Further Analysis and Report on Renewable Energy Requirements." The draft report had found that "the current SPEED program is not conducive to developing viable markets for renewable energy because the program allows for the sale of RECs." GMP disagreed with this finding and filed comments stating that it "does not believe a Renewable Portfolio Standard ("RPS") is necessary for Vermont at this time."⁵⁸ The workshop also posed a series of questions, one of which was: "Are representations made by a Vermont utility in print or on a web site considered marketing under the FTC Guidelines?"

In response, GMP stated: "GMP's view is that utility consumer information materials do not directly fit within the scope of the FTC guidelines." GMP rationalized this rather stunning conclusion as follows:

In Vermont, utilities provide a regulated service to customers at prices set by the Public Service Board within specified monopoly service areas subject to a comprehensive regulatory scheme. In this way, utilities do not generally "market" their services and the information provided does not generally affect consumers' decision-making in the way that marketing communications do in more competitive markets.⁵⁹

⁵⁷ See *Net Metering*, Vermont Public Service Department, http://publicservice.vermont.gov/topics/renewable_energy/net_metering (last visited Sept. 8, 2014) ("Net metering makes it easier and more cost-effective for Vermonters to generate their own electricity").

⁵⁸ Letter dated December 12, 2012 from Douglas C. Smith, Director of Power Supply, to Susan Hudson, Clerk of the PSB. See **Exhibit 16**

⁵⁹ *Id.* at 4.

In other words, GMP appears to believe that it is not required to tell its customers the truth about what it is doing because it has been granted a “monopoly” and Vermonters have no choice in deciding whether to purchase its electricity. As a matter of law there is no “monopoly” exception from FTC’s rules, policies or guides. Deception is deception whether practiced by a monopoly or any other seller of products or services. Many utilities across the country are regulated monopolies. GMP’s interpretation would carve a huge hole in the FTC’s effort to provide consumers with honest information in the marketing of renewable energy.

GMP also suggests that it is not really engaged in “marketing;” that it is simply complying with requirements to submit annual reports, integrated resource plans, public education materials and other documents to state regulators. However, as documented above, GMP is engaged in all kinds of communications with the public—letters to the editor, opinion pieces, press releases, statements at public meetings—that are plainly designed to convince Vermonters that they are getting renewable energy when in fact that is not the case. As defined by the American Marketing Association: “Marketing is the activity, set of institutions, and processes for creating, communicating, delivering, and exchanging offerings that have value for customers, clients, partners, and society at large.”⁶⁰ That is what GMP is doing.

Finally, as we have shown, above Vermonters do in fact have a choice. They do not have to keep buying GMP’s non-renewable electricity. The most obvious alternative is to reduce their energy usage by buying more efficient appliances, installing solar hot water heaters, using smart meters better insulation and many other techniques. But unless they get accurate information about the nature of the power they are getting from GMP they are not in a position to evaluate these options and make an informed choice.

⁶⁰ American Marketing Association website: <https://www.ama.org/AboutAMA/Pages/Definition-of-Marketing.aspx>.

VII. REQUEST FOR RELIEF

In conclusion, Petitioners request that the Commission initiate a full investigation of GMP's marketing practices for its renewable energy program. Should such investigation confirm that GMP is in fact engaged in deceptive practices, Petitioner requests that the Commission initiate an enforcement action under section 5 of the FTCA by filing a complaint seeking a cease and desist order, corrective statements and such other remedies as may be appropriate.⁶¹

Respectfully submitted this 15th day of September, 2014.

BY:



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⁶¹ Given the sustained and repeated nature of the deceptions, a mere cessation of the deceptive practices will not be sufficient to bring customers to a clear understanding of the nature of the electricity purchased from the Utilities. Accordingly, Petitioners ask that the Commission require GMP to clarify the nature of its product through corrective statements pursuant to *Warner-Lambert Co. v. Fed. Trade Comm'n*, 562 F.2d 749 770-71 (D.C. Cir. 1977).

REC SALES (Renewable Energy Certificates) Green Mountain Power Corp
Year Ended December 31, 2012

Date: 4/15/2013

REC SALES (Renewable Energy Certificates)

1. Include RECs from qualified facilities only
2. Generated RECs are from owned facilities or unit contracts
3. Used RECs are those RECs retired in support of programs or mandates
4. Include all RECs regardless of who issues them.

	REC Creation			REC issued, sold, used and available					
	Pending REC Beginning Inventory (1)	Generated (MWh) (2)	Ending/Pending inventory REC Pending (3)	Beginning Inventory REC Issued (4)	Purchased (5)	Sales (internal) (6)	Used (internal) (7)	Expired not sold or use (8)	Ending Inventory of REC available (9)
Hydro (MWh)	-	-	-	867	-	867	-	-	-
Wood (MWh)	-	37,808	-	37,808	-	37,808	-	-	-
Farm Methane (MWh)	-	-	-	-	1,055	201	854	-	-
Waste (MWh)	-	-	-	-	25,647	25,647	-	-	-
Wind (MWh)	-	24,230	-	26,480	49,242	73,472	-	2,250	-
Other (list) (MWh)	-	-	-	-	-	-	-	-	-
H.446*	-	-	-	-	6,038	3,724	2,314	-	-
Total (MWh)	-	62,038	-	65,155	81,982	141,719	3,168	2,250	-

(columns 1+2-3+9=4)
(columns 4+5-6-7-8=9)

Green Mountain Power Corporation
Year Ended December 31, 2011

REC SALES (Renewable Energy Certificates)

Date: 4/12/2012

REC SALES (Renewable Energy Certificates)

- 1. Include RECs from qualified facilities only
- 2. Generated RECs are from owned facilities or unit contracts
- 3. Used RECs are those RECs retired in support of programs or mandates
- 4. Include all RECs regardless of who issues them

REC Creation

REC issued, sold, used and available

	Pending REC	Generated	Ending/Pending	Beginning Inventory	-Purchased	Sales	Used	Expired	Ending Inventory
	Beginning		Inventory REC			REC issued	(internal)		
	Inventory	(MWh)	Pending	REC issued		(internal)	(internal)	used or	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Hydro (MWh)	0.00	803.00	0.00	803.00	0.00	82.00	721.00	0.00	0.00
Wood (MWh)	0.00	25,012.00	0.00	25,012.00	0.00	24,501.00	511.00	0.00	0.00
Farm Methane (MWh)	0.00	0.00	0.00	0.00	1,230.00	343.00	887.00	0.00	0.00
Waste (MWh)	0.00	0.00	0.00	0.00	25,642.00	25,075.00	467.00	0.00	0.00
Wind (MWh)	0.00	10,828.00	0.00	10,828.00	0.00	9,775.00	0.00	1,053.00	0.00
Other (list) (MWh)				0					0.00
H.446 allocation	0.00	0.00	0.00	0.00	2,023.00	54.00	1,969.00	0.00	0.00
Total (MWh)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	0.00	36,643.00	0.00	36,643.00	28,795.00	59,830.00	4,555.00	1,053.00	0.00

(columns 1+2-3+9=4)
(columns 4+5-6+7-8=9)

REC SALES (Renewable Energy Certificates) Green Mountain Power Corporation
Year Ended December 31, 2010

Date: 4/12/2011
REC SALES (Renewable Energy Certificates)

- 1. Include RECs from qualified facilities only
- 2. Generated RECs are from owned facilities or unit contracts
- 3. Used RECs are those RECs retired in support of programs or mandates
- 4. Include all RECs regardless of who issues them

	REC Creation			REC issued, sold, used and available					
	Pending REC Beginning Inventory (1)	Generated (MWh) (2)	Ending/Pending Inventory REC Pending (3)	Beginning Inventory REC Issued (4)	Purchased (5)	Sales (internal) (6)	Used (internal) (7)	Expired not sold or use (8)	Ending Inventory of REC available (9)
Hydro (MWh)	0.00	630.00	0.00	630.00	0.00	0.00	630.00	0.00	0.00
Wood (MWh)	0.00	29,923.00	0.00	29,923.00	0.00	28,518.00	1,405.00	0.00	0.00
Farm Methane (MWh)	0.00	0.00	0.00	0.00	1,279.00	0.00	1,279.00	0.00	0.00
Waste (MWh)	0.00	0.00	0.00	80.00	25,161.00	24,000.00	1,081.00	80.00	80.00
Wind (MWh)	0.00	13,894.00	0.00	15,747.00	0.00	12,000.00	41.00	1,853.00	1,853.00
Other (list) (MWh)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total (MWh)	0.00	44,447.00	0.00	46,380.00	26,440.00	64,518.00	4,436.00	1,933.00	1,933.00

(columns 1+2-3+9=4)
(columns 4+5-6-7-8=9)

STATE OF VERMONT
PUBLIC SERVICE BOARD

Joint Petition of Green Mountain Power)
Corporation, Vermont Electric Cooperative, Inc.)
and Vermont Electric Power Company, Inc. for a)
Certificate of Public Good pursuant to 30 V.S.A. §)
248, to construct up to a 63 MW wind electric)
generation facility and associated facilities on)
Lowell Mountain in Lowell, Vermont and the)
installation or upgrade of approximately 16.9 miles)
of transmission line and associated substations in)
Lowell, Westfield and Jay, Vermont)

Docket No. _____

PREFILED DIRECT TESTIMONY OF
DOUGLAS C. SMITH
ON BEHALF OF GREEN MOUNTAIN POWER CORPORATION

REDACTED VERSION

May 21, 2010

Summary of Testimony

Mr. Smith reviews GMP's existing power supply portfolio, its goals for new power supply arrangements, the projected future power supply costs, and how the proposed Kingdom Community Wind Project will help to meet GMP's power supply goals. Mr. Smith also explains why the Project meets the criteria of 30 V.S.A. § 248 with respect to need, economic benefit, and consistency with Green Mountain Power's Integrated Resource Plan and the 2005 Vermont Electric Plan, the electric energy plan approved by the Department.

1
2 These benefits are uncertain, because they will occur many years in the future and the actual
3 value will depend on a range of factors that are difficult to predict today. Conceptually,
4 however, the Project will provide a real option that GMP may exercise (by continuing to operate
5 the plant and/or repower it) to the benefit of its customers. To the extent that wholesale power
6 prices increase in the future and/or new wind sites are difficult to obtain, this option could have
7 substantial value to customers, in terms of below-market power supply costs.

8
9 In conclusion, GMP considers the potential use of the Project and the site after 25 years to be a
10 material advantage of Project ownership relative to the acquisition of wind power via purchased
11 power agreements (which do not provide any residual value to GMP after their expiration). This
12 additional long-term value associated with the Project represents an economic benefit to the state
13 and its residents.

14

15 **26. Q. Does GMP expect to sell the RECs that the Project generates?**

16 **A.** GMP expects that absent a change in Vermont law, it will sell most or all of the
17 Project's RECs to entities in neighboring states that will ultimately retire them for compliance
18 with RPS requirements. For context, GMP presently sells most of the RECs associated with its
19 premium renewable sources in this manner.⁸

20

⁸ These resources include the Searsburg wind plant, a long-term PPA from the Moretown landfill facility, and the McNeil plant. Consistent with the terms of its voluntary green rate, GMP retires sufficient premium RECs from instate renewable sources to cover the consumption of its green rate subscribers. This ensures that the subscribers' payments have the desired effect of increasing the content of instate renewables in GMP's power supply.

Prefiled Testimony of Douglas C. Smith

Docket No. _____

May 21, 2010

Page 26 of 36

1 Vermont utilities may face a mandatory RPS requiring them to retire rather than sell RECs. This
2 could occur under existing law if the state fails to achieve the near-term objectives of the SPEED
3 program (e.g., 5% of 2005 sales by 2012), or if in the future Vermont adopts a traditional RPS
4 program similar to those in neighboring states. In considering this possibility, I observe that the

5 current SPEED construct of selling RECs (thereby minimizing retail electric rates) is in tension
6 with other Vermont goals regarding air emissions and reduction of greenhouse gas emissions.
7 Specifically, to the extent that Vermont utilities sell the RECs associated with renewable sources
8 like the Project, they are no longer able to claim those sources' renewable content and their
9 low/zero emission profile.

10
11 In my view there is a significant chance that in the future, Vermont utilities will be expected or
12 required to retire (not sell) RECs from new renewable sources like the Project. Because the
13 Project will provide GMP all output (including power and RECs), it will serve as a hedge against
14 such potential changes in Vermont energy policy. GMP will have the flexibility to cost-
15 effectively address a future Vermont RPS by retiring Project RECs, rather than having to
16 purchase RECs at a time when more costly projects may be setting the market.

17
18 **Potential Risks Associated With the Project and the Value of its Output**

19 **27. Q. Will the amount of energy that the Project produces be a significant**
20 **determinant of its cost-effectiveness as a power supply resource?**

21 **A.** Yes. Unlike purchased power resources in which the amount paid varies with the
22 amount of energy delivered, GMP's Project costs are primarily fixed, irrespective of the actual



KINGDOM COMMUNITY WIND FACT SHEET

Green Mountain Power partnered with Vermont Electric Coop to build 21 wind turbines in Lowell, VT as a new source of renewable energy in Vermont. The project began generating electricity in November, 2012.

About the Turbines

1. *How many turbines are there?* 21
2. *What's the make and model of these turbines?* 3 MW VESTAS V112
3. *How much energy is made by KCW?* About 180,000 MWh per year, enough to power 24,000 homes
4. *Where does the power go?* All of the energy is used by GMP and VEC customers
5. *How much CO2 is displaced by KCW?* About 75,000 tons each year
6. *Where were the turbines manufactured?* The towers and blades: Colorado. The nacelle: Denmark
7. *How tall are these wind turbines?* The tower is 273 feet tall. From the ground to the blade tip is 443 feet.
8. *How much does a turbine weigh?* About 500 tons
9. *What are the towers made of?* Steel
10. *What is the diameter of the tower at the base?* Approximately 12 feet
11. *How long are the blades?* 170 feet
12. *What are the blades made of?* Carbon fiber skeleton with a fiberglass cover
13. *How much do the blades weigh?* About 15 tons each
14. *Are there elevators inside the towers?* There are ladders and two-person lifts
15. *How are the tower sections joined together?* They are bolted together on the insides of the towers
16. *Why is the tower door so high off of the ground?* The space between the bottom of the tower and the door contains electrical switch gear. For safety, specifically the avoidance of arc-flash, personnel in the tower are physically separated from this switchgear.

Turbine Operations

17. *How fast do the blades spin?* The blades rotate at up to 14 RPM. At 14 RPM, the outside tip travels at 170 MPH
18. *At what wind speed do the turbines start to turn?* About 8 MPH
19. *At what wind speed do you reach the maximum power generation of 3 MW per turbine?* About 29 MPH
20. *At what wind speed do you have to shut down the turbines?* About 55 MPH
21. *Do the towers sway in the wind?* The tower is intentionally flexible and sways as much as 10 feet at the top.
22. *What happens when there's lightning?* Personnel leave the mountain top; the turbines continue to operate
23. *Do the turbines have lights?* The FAA requires lights. KCW has 8 red LED lights that blink slowly and do not create glare, similar to the ones atop communications towers. We are awaiting FAA approval to use Obstacle Collision Avoidance System (OCAS) radar, which allows the lights to stay off unless aircraft are in the area.
24. *What are you doing to protect bats?* The operation of the turbines is regulated based on the atmospheric conditions that affect the behavior of bats, include the season, time of day, wind speed, and temperature.
25. *Have any birds or bats been killed?* As of August 26, 2013, 30 birds and 11 bats have been killed by the turbines. None of these have been on the endangered list. To put this into perspective, each year about 33,000 birds are



ANSWERS TO COMMONLY ASKED QUESTIONS ABOUT KINGDOM COMMUNITY WIND

What is Kingdom Community Wind?

Green Mountain Power partnered with Vermont Electric Cooperative to build 21 wind turbines on Lowell Mountain as a new source of renewable energy in Vermont. The project began generating electricity at the end of 2012.

How much electricity will Kingdom Community Wind produce?

The wind turbines at Kingdom Community Wind are 3 MW VESTAS V112, some of the newest technology on the market. Once fully operational, the plant is expected to produce approximately 186,000 MWH annually or the equivalent of enough electricity to power more than 24,000 homes each year.

Will the power stay in Vermont?

YES! Every single kilowatt hour of electricity will be used by Green Mountain Power and Vermont Electric Cooperative customers. Refer to page 4 to learn about the Renewable Energy Credits (REC).

How will this benefit Vermonters?

Vermonters will benefit from the lowest cost new renewable energy generated in the state by Kingdom Community Wind. As a utility-owned project, we can provide electricity to GMP and VEC more cost effectively than if the project were owned by an outside developer. It is like the difference between renting and owning – GMP’s and VEC’s customers will reap the long-term value.

How does wind keep pollutants out of the air?

Based on initial estimates for power production, clean energy from KCW will prevent over 74,000 tons of CO₂ per year from entering the earth’s atmosphere from fossil fuel generating plants. Every megawatt hour that a wind plant generates is a megawatt hour a plant – for the most part fossil fuel fired -- somewhere else in New England does not need to operate.

Why are the turbines sometimes not running?

Wind is variable along the length of the ridge and may cause some turbines at different points along the ridge to spin at different speeds. Sometimes, there just isn’t enough wind to turn the blades. In addition, new generation plants, like Kingdom, need adjustments made during the startup phase. While this work is being done, turbines must be shut down. Other reasons why the turbines may not be spinning include: winter operating and noise monitoring and testing protocol; routine 3-month maintenance; and finally, requests from ISO New England for specific output levels. The regional electric system operator balances generation with load across New England. We have experienced periodic curtailment of generation and are working on several different paths to reduce curtailment, including installing a synchronous condenser.

How will GMP decommission the turbines and above-ground infrastructure?

Green Mountain Power has \$6.1 million in a protected decommissioning fund. Decommissioning includes, among other things, the requirement that GMP remove all above-ground components and structures associated with the KCW Project and those below ground to a depth of at least 2 feet and transport them off-site for recycling or disposal; and re-grade all areas excavated during decommissioning to provide for permanent soil stabilization and to promote establishment of appropriate vegetation.



February 2013

Exhibit 5
Page 1/2

Dear Neighbors,

As you have probably read in the papers, construction was completed at the Kingdom Community Wind project in November, ahead of schedule and under budget. We cannot thank the people of Lowell enough for their strong support of this project, which, as utility-owned generation, is the lowest cost new renewable resource available. Although many hurdles were encountered along the way, the project would not have been completed without the community's continued enthusiasm and support. Thank you!

One thing we know is important to nearby residents is that every kWh of energy produced by Kingdom Community Wind is used by members of Vermont Electric Coop and Green Mountain Power customers. In addition, unlike most power sales, Green Mountain Power sells the power to VEC at cost..

We built the project in a way that minimizes environmental impacts. As you may recall, the construction affected 135 acres in total. When construction was complete, we started the re-vegetating process, and the total footprint will be significantly reduced as native plants once again cover the slide slopes of the roads and turbine pads. However, because of the impact we did have we conserved over 2,800 acres of natural wildlife habitat in Northeast Vermont - most of it conserved forever.

As with any new facility, we're now in a phase of fine tuning each turbine, and making adjustments to the system as a whole. You might have noticed that the turbines do not spin all the time. There are good reasons for this. We have been conducting noise monitoring studies that require the turbines to be turned off frequently. Also, the start-up phase requires the turbines to be shut down periodically for inspection and adjustments. Finally, under certain weather conditions we shut down the turbines according to protocols required in our permit. After we get through the initial stages of operation you will see the turbines spinning more when the wind is blowing.

We are also in the process of obtaining the necessary permit to install a new piece of equipment required by ISO-New England - the organization responsible for operating and controlling the New England electric grid. Until we do, ISO-NE is periodically setting limits, also known as curtailment, on how much power we can generate at different times of the day. Sometimes these limits are set at levels above what we can produce so it has no effect on the amount generated. Other times, when ISO sets the level below what we can produce it means we lose some generation. We expect to have the new equipment installed by the end of the year. Once it is installed the level of curtailment will dramatically decrease.

It is important for Lowell residents to know that the curtailment will have no effect on GMP's tax payments to Lowell, as those are based on the capacity of the plant, and not the production. We recently sent the first check, for \$103,000 for the 2012 payment. The 2013 payment will be \$535,000.

Enclosed is a Q&A that we developed to provide additional information based on questions that we have heard of recently. We hope you find it informative. If you have questions feel free to contact either of us or the other contacts listed below.

Sincerely,



Mary Powell
President and Chief Executive Officer
Green Mountain Power
802-655-8407



Dave Hallquist
Chief Executive Officer
Vermont Electric Cooperative
802-730-1138

Additional contacts:

Local representatives, Gert and Andy Tetreault, 801-744-6664
Vermont Electric Cooperative, Liz Gamache, 802-730-1158
Green Mountain Power, Joanne Heidkamp, 802-238-5414



Exhibit 6
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Dostis in Times Argus: Wind project low cost, low carbon

Jan 9, 2011 | 12:45 PM | 1,197 Views



WE ARE VERMONT

The following letter to the editor is reposted here from the Times Argus. The letter is from Robert Dostis. Dostis is Green Mountain Power's director of external affairs.

Published: January 9, 2011

Readers of this paper should have balanced information regarding the merits of large-scale wind generation, in particular Green Mountain Power's Kingdom Community Wind project in Lowell. Annette Smith, executive director of Vermonters for a Clean Environment, wrote an opinion piece

arguing against large-scale wind generation. It is our belief that responsible wind development is important for Vermont's energy future.

When Green Mountain Power decided to move ahead with the wind project, we knew it would not be an easy road. We did it to provide Vermonters with power that is low-carbon and low-cost relative to other renewable generation. We were also committed to developing the project in the most environmentally responsible way. Kingdom Community Wind delivers on these objectives.

Kingdom Community Wind, if permitted, will be located on private property in the town of Lowell. A maximum of 21 turbines will be installed, generating enough electricity for approximately 20,000 Vermont residences. All the power generated will stay in Vermont for the benefit of Vermont Electric Co-op members and Green Mountain Power customers. The total acres needed for the project are 167 out of a total of approximately 2,700 acres owned by the private parties hosting Kingdom Community Wind. It will be a part of a working landscape where much of the surrounding forest is run as a logging operation.

Two issues that I want to address in Ms. Smith's letter relate to the cost and environmental impact of GMP's project.

In poll after poll Vermonters have long said they support renewable energy. The state of Vermont has set mandates for utilities to get power from low-carbon renewable energy. State law, through a standard offer program, has also set prices for specific quantities of solar, farm methane, biomass (wood), hydro and wind to encourage in-state development of renewable generation. These prices range from 11.8 cents per kilowatt-hour for large wind up to 2.2 megawatts, 21.48 cents per kilowatt-hour for small wind up to 15 kilowatts, and initially 30 cents per kilowatt-hour for solar.

The power from Kingdom Community Wind will help meet state goals for renewable energy and will be lower-cost than the lowest standard offer price. How much lower the cost will be will depend on the turbines selected, their energy output and market prices for the renewable energy

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Exhibit 6
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credits. One thing Green Mountain Power knows from experience: cost and a good investment on behalf of our customers — both in power and long-term price stability.

All energy sources come with environmental and societal trade-offs. Solar requires large tracts of land. You would need more than 700 acres for solar generation to produce the energy Kingdom Community Wind will generate occupying 167 acres. Nuclear power has radioactive waste. Fossil fuels produce pollutants and exacerbate climate change. Building wind on a mountaintop has consequences, and Lowell Mountain is no exception. The question is what trade-offs we are willing to accept. People differ on this, and it makes for healthy conversations.

Green Mountain Power understands the value of in-state renewable generation and acknowledges the trade-offs. We have been careful to minimize the environmental impact of building this project. To mitigate unavoidable impacts, we have offered to conserve 690 acres of forest and wetlands for the life of the project, with 290 acres conserved in perpetuity.

Kingdom Community Wind means clean renewable energy built in Vermont for Vermonters.

Robert Dostis is director of external affairs and customer relations with Green Mountain Power.

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WIND TOURS



Seizing the (windy) days.

GMP is committed to encouraging the development of new renewable energy resources. As part of that goal, GMP has made a serious investment in developing wind power in Vermont. Two examples of that investment can be seen in our Searsburg Wind Facility, and the Kingdom Community Wind project in Lowell, Vermont.

Kingdom Community Wind

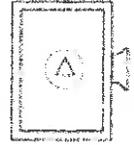
Working together with Vermont Electric Coop, Green Mountain Power has built 21 wind turbines along the ridgeline of the Lowell Mountain Range. This location offers both a reliable source of wind, and also the infrastructure necessary to bring the project online. For more information on Kingdom Community Wind, check out this [FAQ](#).

In June, July and August each year we offer a weekly public tour of Kingdom Community Wind so Vermonters can see and hear the project up close and learn how GMP is harnessing the wind to make electricity for more than 24,000 homes. The tours are free, but advance registration is required. Click [here](#) for the tour schedule and registration information.



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Exhibit 8
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Kingdom Community Wind Delivers for Vermonters

23 January 2014

COLCHESTER, VT--(Marketwired - Jan 23, 2014) - As Vermont endures another cold snap, power prices in the region are escalating and Green Mountain Power is pleased that power from Kingdom Community Wind (KCW) continues to offset the high peak prices in the marketplace for Vermonters.

During the bitter cold in December, energy prices on the open market hit a high of 60 cents per kilowatthour. During that same period, KCW generated enough power for 16,500 homes from low-cost wind. This is part of Green Mountain Power's continued commitment to deliver reliable, low-cost energy to Vermonters, and Kingdom Community Wind is a key initiative.

Another important commitment made at Green Mountain Power was to give back to surrounding communities by sharing with them the benefits of this project through the Good Neighbor Fund. "We are so pleased to announce that thanks to the strong power generation at the Kingdom Community Wind Farm, five Northeast Kingdom towns will receive more than \$126,000 this month," GMP President and CEO Mary Powell said. "The Good Neighbor Fund is an innovative approach by Green Mountain Power to offer direct value to neighboring towns."

Jacques Couture, owner of Couture's Maple Shop/B&B and member of the Westfield selectboard said, "As a business owner and a selectboard member in Westfield, I really appreciate that Green Mountain Power has deemed it appropriate to create this fund as a gesture of goodwill to the local communities. I see the windmills from my kitchen window every day and I love it. I love that they are generating local power. My guests at the B&B love watching the turbines -- I've never heard a negative comment."

Good Neighbor payments are being made today to Albany, which will receive \$41,262, Eden \$45,711, Craftsbury \$19,986, and Westfield and Irasburg, each of which will receive \$10,000. The Good Neighbor Fund provides benefits to the five towns within five miles of the project, based on the amount of power produced.

The communities will continue to get Good Neighbor payments for the first ten years the plant operates. Kingdom Community Wind began generating power in November 2012.

Green Mountain Power built the 21-turbine project on Lowell Mountain, which is located in Vermont Electric Co-op's (VEC) service territory. VEC worked closely with GMP to support the project and is purchasing power generated by KCW. "It is important for us to deliver highly competitively priced power to VEC's 32,000 member-owners. We have been pleased to join with GMP on Kingdom Community Wind to do so," said Dave Hallquist, CEO at VEC.

Kingdom Community Wind continues to provide tremendous value for customers, especially during times of fluctuating energy prices. Projects like KCW are helping GMP hold base rates flat for customers for the next two years. In the last three months, the energy produced at Lowell has exceeded projections.

"GMP customers consistently tell us they expect clean, green, cost-effective energy. We are so proud to be able to deliver on that and at the same time keep costs down, maintain world-class customer service, and provide ongoing support to these five towns," Powell said.

About Green Mountain Power

Green Mountain Power (www.greenmountainpower.com) generates, transmits, distributes and sells electricity in the state of Vermont. The company, which serves more than 250,000 customers, is the Solar Electric Power Association's 2013 Utility of the Year, and has set its vision to be the best small company in America.



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INNOVATIVE POWER > GMP SOLAR POWER > ABOUT SOLAR POWER

About Solar Power

A A A

GMP Solar Power makes electricity out of bright futures.

As part of our continuous effort to incorporate renewable sources of energy into our fuel mix, GMP Solar Power offers financial incentives for Vermonters to install solar panels. GMP Solar Power also makes investments in new solar plants. Available to both residential and commercial customers, GMP Solar Power helps keep fossil fuels off the grid and adds another clean source to GMP's mix of renewables.

Upon merging with CVPS, GMP Solar Power added a significant amount of solar power generation to its resources. Included in that addition is the 264-panel array along one of Vermont's busiest highways, Route 7 in Rutland Town. Combined with our Berlin Solar Plant, this array doesn't just help to cleanly power Vermont, but serves as a working classroom for students and others interested in homegrown, emissions-free energy. Self-directed tours are available at the Renewable Education Center (REC), which includes a walking path through the panels and educational displays that outline all of GMP's clean energy efforts. [Click here to learn more about the Renewable Education Center and/or arrange a guided tour.](#)

To see how a solar plant is built, take a moment to watch the time-lapse video of the construction of GMP's Berlin Solar Plant.

If you are thinking about installing solar panels, visit our resource page for developers and installers to make sure you have everything you need before making a highly commendable, future-focused investment in solar energy.

If you still have questions about renewables at GMP after reading our FAQs, please contact Melinda Humphrey in the Energy Innovation Center at 802-353-0914.

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INNOVATIVE POWER > THE SOLAR CAPITAL OF NEW ENGLAND > CREEK PATH SOLAR FARM

Creek Path Solar Farm

A A A

The 149 kW solar farm was built on a remediated brownfield site and was completed two weeks ahead of schedule, on December 17, 2012. The project was the first new project as a result of the Rutland Solar Capital initiative, constructed on a GMP-owned 3-acre parcel on Cleveland Avenue and is adjacent to Rutland's new Creek Path, for which the solar farm is named. The site housed an old coal-to-gas plant at the turn of the 19th Century, but sat largely vacant for several decades except for utility equipment storage. The project is part of GMP's plan to create and inspire construction of enough solar to provide Rutland with the highest solar reliance per capita of any city in the northeast. SameSun of Vermont constructed the project enlisting the help of many of Rutland's own students from Stafford Technical Center, who all did an outstanding job making the project a reality.

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EXHIBIT 11

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Power Line Upgrade Leads To Dramatic Increase In Cost-Effective Energy From GMP's Kingdom Community Wind Facility



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20 September 2013

COLCHESTER, VT.... Green Mountain Power today reported that generation at the Kingdom Community Wind facility in Lowell has increased dramatically following completion of a local subtransmission line upgrade. The successful upgrade is creating immediate and significant value to Vermonters and is a result of GMP's collaboration with ISO-NE and VELCO to identify power curtailment solutions.

"The Kingdom Wind facility is now generating significantly more power due to this upgrade, to the direct benefit of Vermont customers. We have always believed that this wind resource would provide a clean, cost-effective energy resource for Vermonters, and this upgrade is helping us achieve that goal. Thanks to the changes to the ISO-NE curtailment limits that we have worked with ISO and VELCO to implement, Vermonters will benefit from more of this renewable, cost effective resource," said Dorothy Schnure, Green Mountain Power spokesperson.

GMP recently made improvements to the transmission system in northeastern Vermont by increasing the capacity on the subtransmission line between Irasburg and Johnson, Vermont. The dramatic increase in overall September production -- in the past two weeks, Kingdom Community Wind has generated 7,700,000 kilowatthours, enough for more than 25,000 homes -- shows the immediate impact these improvements are producing.

To further increase the power produced by Kingdom Community Wind, Green Mountain Power is installing a synchronous condenser in Jay this winter. This new equipment should allow full power output at the wind plant. Without curtailments, the 21 turbines on the site will be able to generate 63 megawatts during maximum wind conditions.

"This upgrade is already showing dramatic results, and we look forward to adding even greater reliability and value when we complete our work in Jay this winter. This upgrade doesn't completely eliminate the risk of curtailment, but by working closely with ISO and VELCO to implement curtailment solutions, we are maximizing the extraordinary value that Kingdom Community Wind represents to Vermonters," Schnure said.

Dorothy Schnure, Corporate Spokesperson
Office: (802) 655-8418, Cell (802) 324-4418

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Exhibit 12

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GMP Searsburg Wind Plant Has Banner Year

10 March 2011

Green Mountain Power's Searsburg wind power facility had its most productive year on record in 2010, thanks to weather conditions and strong operating performance.

"In its 13 years of continuous operation, the Searsburg facility has demonstrated that wind power works in Vermont," said Mary Powell, president and CEO of Green Mountain Power.

Above average wind speed contributed to record annual energy production of 14.7 million kilowatt hours in 2010, enough to supply more than 2,000 Vermont homes, well above the 11.8 million kwh 13-year average. In addition, there was less icing than usual in January, February and March 2010, which allowed more electricity to be produced in the coldest months when electricity market prices tend to be high.

"At six cents per kilowatthour, GMP Searsburg wind has been a cost-effective way for us to provide our customers with renewable energy," said Ms. Powell. "Our success at Searsburg encouraged us to propose the Kingdom Community Wind project in Lowell of up to 63 megawatts, which is now undergoing review by Vermont's regulators."

Wind plants use a free resource to generate electricity, unlike fuels such as oil, wood and gas whose cost can be volatile, so they help to stabilize the price of electricity.

"Wind power is intermittent, as is customer load, but in combination with other renewable energy sources, such as solar and hydro, it can be part of a cost-effective and reliable energy strategy," said Ms. Powell.

In 2010, as in every previous year since its construction, GMP's Searsburg wind plant received many requests for tours. There were more than 400 visitors to the site last year, including elementary school groups, college classes and interested citizens from the surrounding communities in Vermont and Massachusetts, as well as several people from the Ukraine.

Built in 1997, the six megawatt facility is currently Vermont's only utility-operated wind powered electric generation facility. Since it was built, the GMP Searsburg Wind Power facility has produced more than 164 million kilowatt hours of clean energy.

About Green Mountain Power

Green Mountain Power (www.greenmountainpower.com) generates, transmits, distributes and sells electricity in the State of Vermont. It serves more than 175,000 people and businesses.

ABOUT US

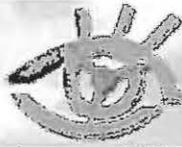
GMP, or Green Mountain Power, is a local electricity utility in the state of Vermont focused on providing its customers with a balance of the most reliable, affordable, smart, and clean electricity, in an effort to be the best small utility in America.

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filed: February 28, 2010 • Vermont

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Lowell wind hearings end, ruling due in May

Credit: Robin Smith, Staff Writer. Caledonian-Record, caledonianrecord.com
Reposted at Energize Vermont, energizevermont.org 28 February 2011 --

Three weeks of hearings about the Lowell wind project ended Thursday in Montpelier, a day earlier than scheduled.

In March, the Vermont Public Service Board, the state's utility regulator, will collect final briefs from all the parties involved and is expected to announce its decision in May.

Green Mountain Power, with its partners Vermont Electric Cooperative and the transmission company VELCO, has asked for a certificate of public good to erect 20 to 21 industrial turbines on the Lowell ridge line in a project called Kingdom Community Wind. The board has already granted permission for other large wind projects, including one in Sheffield.

GMP hopes to begin construction this summer and begin to supply electricity to its customers and VEC members by the end of 2012.

VELCO is also seeking to upgrade its transmission lines in the area to handle the potential 63 megawatts of electricity the wind project could create.

Meanwhile, the Vermont Agency of Natural Resources is holding a hearing 6 p.m. Wednesday at Lowell Graded School about GMP's request for a storm-water runoff permit during construction of the wind project.

The wind project has been in the news this week, with opponents staging a protest Thursday on the steps of the Statehouse in Montpelier across the street from the hearings. Gov. Peter Shumlin, who supports the project, stopped in Lowell Thursday to see the wind site for himself.

Also on Thursday, GMP and ANR gave the Public Service Board the details of an agreement to protect environmental resources on the ridge line. GMP agreed to address ANR concerns about bear habitat and fragmentation with "significant mitigation measures" that will protect wildlife in and around Lowell, GMP spokeswoman Dorothy Schnure said Friday.

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Wind turbines take a turn for the uglier

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Campaigners respond to planning recommendation that bid to construct three 100m turbines in Colne Valley is refused

Scotland:
Wind turbines 'ruin views in most of Scotland'

Kansas:
Legislators: Fight over wind-power standard not over

Illinois:
County board talks wind farm, hears from area residents

Scotland:
Wind boss quits over anti-gay comments

Massachusetts:
Cape Wind inks staging lease

Under the agreement, GMP will conserve more than 900 acres of natural habitat. GMP will permanently restrict development and restore the site when it is no longer used for renewable energy production.

"Restoring the site means that Green Mountain Power will break up the road to make it more conducive to re-vegetation as well as work with the ANR on a plan to replant the area," Schnure said.

"Reaching agreement with the ANR was very important to us, as our goal is to built this wind project in the most environmentally responsible manner. We believe that by addressing ANR's concerns, we have set a new standard that future Vermont

projects will have to meet," Schnure said. "This project is an important part of Green Mountain Power's strategy to provide its customers with long-term, stably priced renewable energy."

GMP will sell electricity from the project at cost to Vermont Electric Cooperative. VEC serves most of Orleans County.

Source: Robin Smith, Staff Writer. Caledonian-Record, caledonianrecord.com
Reposted at Energize Vermont, energizevermont.org 28 February 2011

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Low-cost, low-carbon, reliable

Author(s): Mary Powell **Date:** December 26, 2010 **Section:**
FEATURES15

As we enter the new year, there is a lot of discussion at both the federal and state level about our future energy supply. Will **carbon** have a price? Will there be new nuclear plants built in this country? Will Vermont Yankee operate after 2012? While there will always be some uncertainty about the future, Vermonters may be reassured to learn how Green Mountain Power's ambitious energy plan is coming to fruition. GMP's rates are currently among the lowest in New England, and Vermont's **carbon** footprint is one of the cleanest in the country, but our challenge is how we will sustain our success in the future. Two years ago, Green Mountain Power launched our energy vision to provide clean, cost-effective and incredibly reliable electricity to our customers. We set out to accomplish that with a laser focus.

Our plan focused on developing a new more strategic relationship with Hydro-Quebec that would benefit both Vermonters and Quebec, ramping up cost-effective renewable energy sources and ramping down our dependence on Vermont Yankee. Here is a status report on our vision:

1. Develop new strategic relationship with Hydro-Quebec. We leveraged our geo-political relationship with Hydro-Quebec and completed negotiations this summer to purchase its renewable, competitively priced electricity for 26 years. That contract is now under review by Vermont regulators.

2. Ramp up renewable generation in Vermont. Green Mountain Power has emerged as the leader in developing solar and wind energy in Vermont. We jump-started solar installations by our customers when we introduced the SolarGMP rate in 2008 and have seen customer projects more than quadruple. We recently completed three major solar projects, including our Berlin project, which is the largest utility-owned solar project in Vermont. We partnered with Shelburne Farms to build a solar orchard that will help educate thousands of people visiting the farms each year. We have installed solar panels at our headquarters and our service centers that together will supply 25 percent of the electricity we use in all our offices.

When GMP built its six-megawatt Searsburg wind facility in 1997, it

was the largest wind plant east of the Mississippi. Now we are deep in the regulatory approval process to build Kingdom Community Wind - up to 63 megawatts of wind power in Lowell. If approved, Kingdom Community Wind will be the largest permitted project in Vermont and generate enough electricity for 20,000 Vermont homes. We are demonstrating that utility ownership of renewable generating facilities brings important cost benefits to customers, much as owning a home over the long term is preferable to renting.

3. Ramp down dependence on Vermont Yankee. Vermont Yankee's current license expires in early 2012. Its future is uncertain and its public support limited. If the plant can demonstrate it is safe and reliable, it will also need to provide value to Vermont that would include a favorable power agreement yet to be achieved with Vermont utilities. GMP has already taken deliberate steps to replace some of the energy we currently purchase from Vermont Yankee to protect our customers in the event the plant is not relicensed and to diversify our energy mix.

4. Finally, continue to invest in efficiency and demand-side management. This is an important, cost-effective, **low-carbon** way for our customers to meet their energy needs.

Accomplishing all of this is not an easy task, and I have great confidence in the experienced, efficient and talented team at Green Mountain Power. But energy decision-making is always a balance - every single way of generating electricity has advantages and drawbacks, and every generating plant has environmental effects that people weigh differently. Some people look at wind towers and are amazed at their grace and inspired by the renewable energy output. Others don't want them on Vermont's ridgelines.

Our commitment with Kingdom Community Wind in Lowell is to present to regulators a very well-researched and thoughtful proposal for a significant increase in Vermont's renewable energy generation capacity. This is an important project for our customers and our company. It is also an important way for Vermont to achieve the goals set by our Legislature for in-state renewable generation.

It will continue to be a challenge to find ways to provide **low-cost, low-carbon** and reliable power to our customers. It is a challenge the Green Mountain Power team is determined to meet.

Mary Powell is president and chief executive officer of Green Mountain Power.

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Consumer Attitudes About Renewable Energy: Trends and Regional Differences

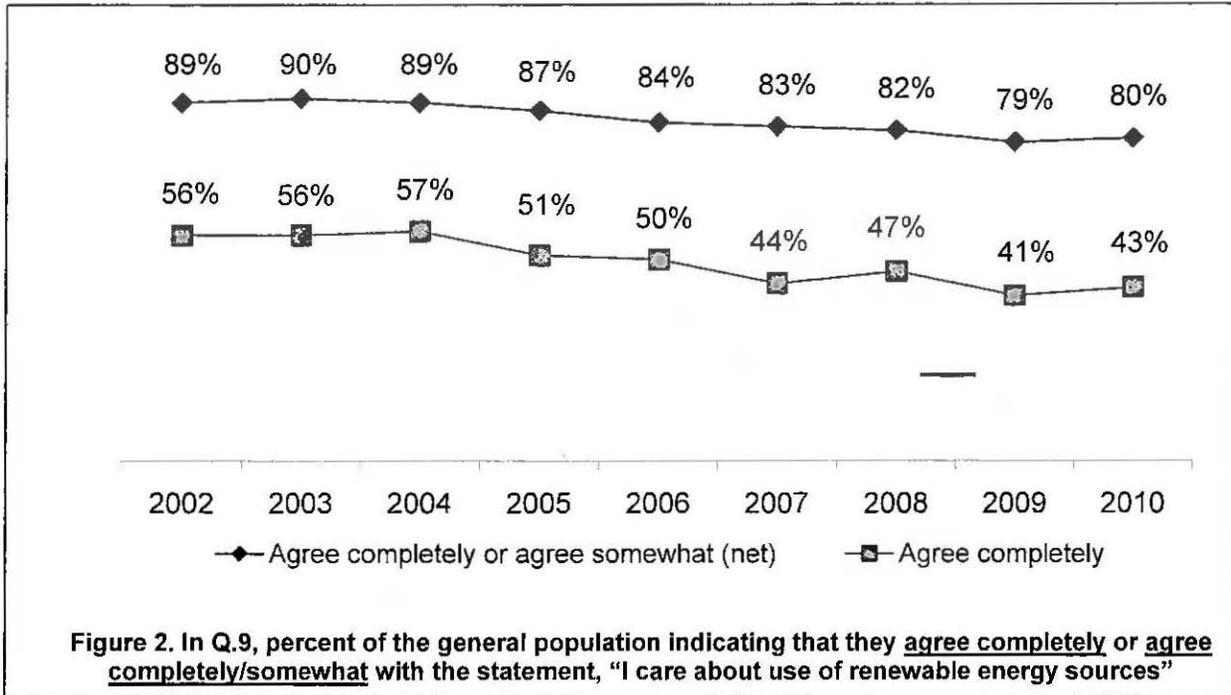
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Subcontract Report
NREL/SR-6A20-50988
April 2011

Contract No. DE-AC36-08GO28308

2.3 Consumer Caring About Using Renewable Energy, Trended



Source: 2010 LOHAS Consumer Trends Database

According to Figure 2, a strong majority of consumers care about renewable energy, ranging from about 80% to 90% over the survey period. Slightly fewer consumers care about using renewable energy now than they did in 2002, down 1% annually over the nine-year horizon. This decline has come primarily from the people who agree completely (down 3% annually), meaning that there is an absolute decline and a decline in intensity.

Note that more consumers report concern about use of renewable energy than are aware of the term renewable power. There are a few possible explanations for this apparent disconnect. First, the terms renewable energy and renewable power have subtle but important differences.³ Second, the question format may affect response; for example, the awareness question asked respondents to check all they were aware of, whereas this question uses a five-point Likert scale format. A question using with a Likert scale asks respondents to answer using a scale (in this case, from "agree completely" to "disagree completely"), which is more appropriate for a question about concern or caring and also elicits a more thoughtful response.

As shown in Figure 3, concerns about other broad-based environmental issues have also experienced this decline. While the decline may seem ironic during a decade that saw significant growth in renewable energy development and considerable expansion in the number of green products on the market, the trends may actually be related. The increased development and availability of renewable energy may indicate to consumers that the associated environmental

³ Renewable energy is a little broader than power, and there are forms of renewable energy that do not generate electricity, such as solar hot water.

3.3 Consumer Price Sensitivity for Renewable Energy, by Region

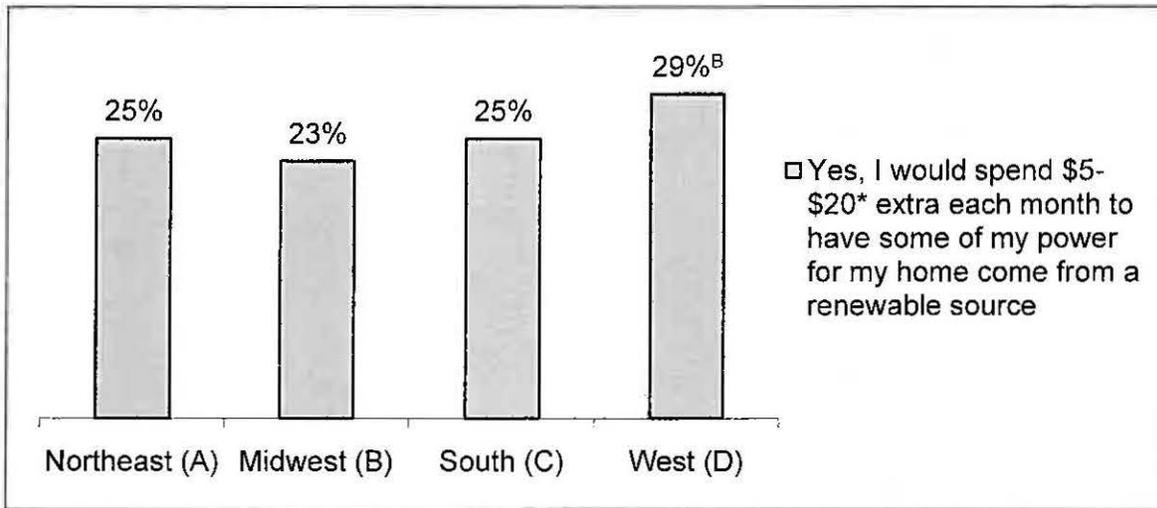


Figure 9. In Q.122, percent of the general population, by region, stating that they would spend \$5–\$20 extra each month (\$5–\$10 prior to 2009) to have some of their household power come from a renewable source

*\$5–\$10 prior to 2009

Note: Capital letters indicate significant differences between regions at the 95% confidence level

Source: 2010 LOHAS Consumer Trends Database

As shown in Figure 9, West Coast consumers are less price sensitive than those consumers in the eastern regions and statistically less price sensitive than those in the Midwest. While these data may suggest that renewable energy marketers could charge more in the West than elsewhere in the country, it may also suggest that this region has higher market potential.

3.4 Consumer Stated Purchase of at Least Some of Their Household Power from Renewable Sources Over the Past Two Years

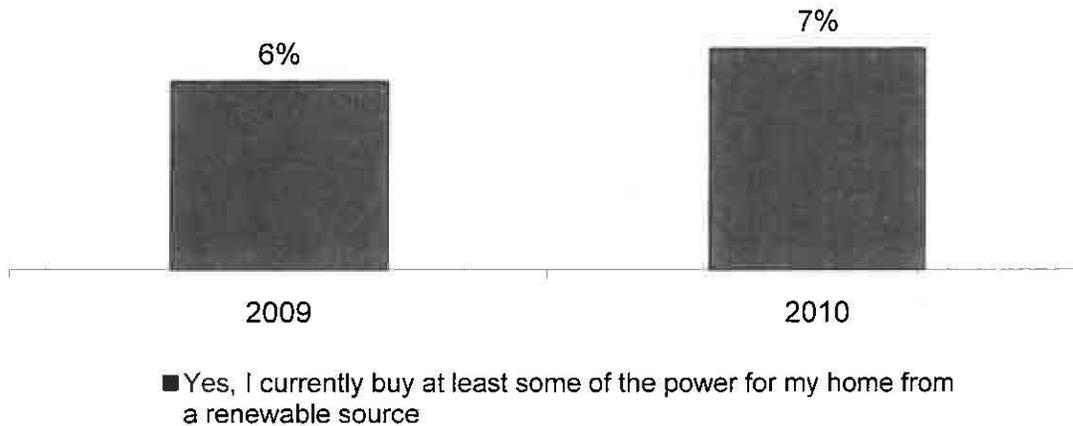


Figure 10. In Q.122, percent of the general population stating that they currently buy at least some of their household power from a renewable source

Source: 2010 LOHAS Consumer Trends Database

As shown in Figure 10, 7% of the population reports that they buy at least some of their household power from a renewable source. This is significantly higher than the percentage of consumers who participate in programs offered by consumer utilities and competitive marketers (approximately 1% of households). However, survey data may include individuals who know that renewable energy is part of the grid's mix in their service territory, who have solar-powered garden lights, solar water heating, solar electric systems, or other on-site renewable energy systems.

As other studies have found, this percentage is far below the portion of the population who care about renewable energy or who would pay more for it. Importantly, it is not that different from the percentage of people who know that they have the option to buy renewable energy. Simply providing consumers with greater awareness of their purchase options may be the most important factor in growing the renewable energy market.

Usage of other "green" market products may be helpful for comparative purposes (though the purchase process for these products is quite different than that for renewable energy). For example, one-quarter of the population has purchased a natural cleaning product, nearly 50% have purchased a CFL, and 30% have purchased rechargeable batteries in the past year.



DOUGLAS SMITH
Director of Power Supply

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December 20, 2012

Ms. Susan M. Hudson, Clerk
Vermont Public Service Board
People's United Bank Building, Fourth Floor
112 State Street, Drawer 20
Montpelier, Vermont 05620

Re: Further Analysis and Report on Renewable Energy Requirements
Supplemental Comments and Responses to Workshop Comments

Dear Ms. Hudson:

Green Mountain Power Corporation ("GMP") submits these supplemental comments on the Public Service Board's (the "Board") draft *Further Analysis and Report on Renewable Energy Requirements* (the "Report") prepared pursuant to the requirements of Act 170. Also included are responses to question raised at the workshop convened by the Board on December 11, 2012. This filing supplements GMP's preliminary comments of December 7, 2012,

Supplemental Comments

As noted in our preliminary comments, GMP does not believe a Renewable Portfolio Standard ("RPS") is necessary for Vermont at this time. GMP disagrees with the draft Report's finding that "the current SPEED program is not conducive to developing viable markets for renewable energy because the program allows for the sale of RECs." The SPEED program has effectively stimulated the development of new renewable supply through utility ownership and long-term power purchase agreements ("PPAs") for the output -- energy, RECs and capacity -- of renewable energy projects in the region. There is currently a limited number of entities in the region willing and able to sign long-term PPAs with new renewable projects (which is often a requirement for these projects to obtain financing) or to build such projects themselves. Vermont entities are able to fill some of the demand for these long-term commitments, and thus facilitate these projects (such as Kingdom Community Wind in Vermont, and Granite Reliable in New Hampshire) being built. At least in the short term, and perhaps in the long-term, these projects have the effect of increasing the regional supply of new renewables.

Price Suppression

GMP recognizes that the addition of new supply (including renewables) can lower wholesale market prices in Vermont and the region, however we caution the Board against putting undue emphasis on the potential price suppression associated with an RPS. While lower wholesale prices have coincided with the implementation of an RPS in several states, there are many other factors at play in determining the price of electricity, making it difficult to attribute the price decreases to the RPS. When estimating the price impacts of long-lived assets like renewable projects, it also tends to be difficult to estimate how the power system would have evolved (*e.g.*, what power plants would have been built or retired) in the absence of the subject projects.

In summary, GMP does not recommend an RPS for Vermont at this time. If an RPS is adopted, GMP supports most of the fundamental principles recommended by the Board, and stresses the importance of allowing flexibility in achieving the goals for the initiative.

Response to Workshop Questions

Q. Are representations made by a Vermont utility in print or on a web site considered marketing under the FTC Guidelines?

The FTC Guidelines “set forth the Federal Trade Commission’s current views about environmental claims” and “consist of general principles, specific guidance on the use of particular environmental claims, and examples.” 16 C.F.R. Parts 260.1(a) and (c). The guidelines:

...do not confer any rights on any person and do not operate to bind the FTC or the public. The Commission, however, can take action under the FTC Act if a marketer makes an environmental claim inconsistent with the guides. In any such enforcement action, the Commission must prove that the challenged act or practice is unfair or deceptive in violation of Section 5 of the FTC Act.

See Part 260.1(a). Whether a particular claim is deceptive will depend “on the net impression of the advertisement, label, or other promotional material at issue.” See Part 260.1(d).

Section 5 of the FTC Act prohibits deceptive acts and practices in or affecting commerce. A representation, omission, or practice is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and is material to consumers’ decisions. See Part 260.2. With respect to renewable energy claims, the guidelines state:

If a marketer generates renewable electricity but sells renewable energy certificates for all of that electricity, it would be deceptive for the marketer to represent, directly or by implication, that it uses renewable energy.

See Part 260.15(d).

In Vermont, utilities provide a regulated service to customers at prices set by the Public Service Board within specified monopoly service areas subject to a comprehensive regulatory scheme. In this way, utilities do not generally “market” their services and the information provided does not generally affect consumers’ decision-making in the way that marketing communications do in more competitive markets. Rather, companies provide education on the activities of the utility and on the terms and conditions of the services that the customer may avail itself to under the company’s regulated tariff offerings. While there are aspects of the communications that may be considered by a consumer when it determines what service to select, the structure of the interaction is different from a traditional marketing encounter, and the purpose of the utility’s provision of the information is different.

While the FTC guidelines do not provide a specific definition of a “marketing” claim, Part 260.1(c) states:

These guides apply to claims about the environmental attributes of a product, package, or service in connection with the marketing, offering for sale, or sale of such item or service to individuals. These guides also apply to business-to-business transactions. The guides apply to environmental claims in labeling, advertising, promotional materials, and all other forms of marketing in any medium, whether asserted directly or by implication, through words, symbols, logos, depictions, product brand names, or any other means.

Id. GMP’s view is that utility consumer information materials do not directly fit within the scope of the FTC guidelines. Nonetheless, the FTC guidelines are useful guides that can inform the drafting and review of such materials.

Q. Are the FTC guideline (16 CFR Part 250.15(d)) applicable to Vermont retail electricity providers?

As described above, the FTC guidelines do not appear to directly address the circumstances affecting the provision of customer information by a regulated utility. Nonetheless, the guidelines provide useful insight to aid parties to develop customer communications that can be reasonably interpreted and are not deception or misleading. In this regard the guidelines are like other green marketing guides and advice memorandum.