

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8167

Investigation into the potential establishment of)
standards related to sound levels from the operation of)
generation, transmission and distribution equipment by)
entities subject to Public Service Board jurisdiction)

Order entered: 1/29/2014

PREHEARING CONFERENCE MEMORANDUM
AND PROCEDURAL ORDER

I. INTRODUCTION

On December 9, 2013, pursuant to Title 30 of the Vermont Statutes Annotated and the Rules of the Public Service Board, and in particular pursuant to Sections 2(c) and 209(a)(3) of Title 30, the Public Service Board ("Board") opened an investigation into the issue of appropriate sound standards applicable to facilities constructed pursuant to 30 V.S.A. §§ 248 and 219a. In today's Order, we establish a process for conducting this proceeding, as well as a proposed scope of the issues to be examined through the investigation. We also set a 30-day period for public comment on the proposed scope of the issues.

II. PROCEDURAL HISTORY

On January 8, 2014, a prehearing conference was held before the Board, pursuant to 30 V.S.A. § 10(c), to discuss the overall goal for the investigation, the format that the investigation should follow, intervention issues, and potential schedules. Many interested persons and entities filed written comments and recommendations on these topics in advance of the prehearing conference; numerous additional comments and recommendations were expressed in person at the prehearing conference.

III. DISCUSSION

Based on the comments that we received in writing and at the January 8th prehearing conference, the Board has identified the following process and proposed scope of issues to be examined in this investigation.

To date, in reviewing Section 248 applications, the Board has taken a case-by-case approach in imposing specific sound limitations on projects in order to protect the public health and safety, consistent with the best scientific information available at the time of the project's review. To a large extent, when imposing sound limits on a project, the Board has employed a sound standard based upon guidelines developed by the World Health Organization.

The primary goals of this investigation are twofold: (1) to examine whether the standards that the Board has applied in previous cases are adequate to protect public health and safety and consistent with the best scientific information available today; and (2) whether the Board's current case-by-case approach to imposing sound limitations is appropriate to allow for evolution of the standards based on the latest scientific information.

Process

Based on the comments received and our experience in other policy investigations, we have concluded that the most appropriate course of action for achieving these goals at this time is to conduct this investigation as a non-contested case proceeding. This approach is likely to facilitate the fullest extent of participation by the public, communities, and affected individuals. To that end, we intend to convene a series of workshops to facilitate public discussion of sound issues. We also will provide future opportunity for written comment during the workshop process to address specific sound issues reviewed in particular workshops.

We further encourage the active participation of the Vermont Department of Health and Vermont Department of Public Service in this investigation to offer assistance in reviewing the scientific and technical literature to assess the "state of the science" regarding sound emitted from energy facilities, and to make recommendations regarding sound standards and protocols.

If, as a result of the investigation, we find it would be appropriate to establish binding sound-related standards applicable to any class of electric generation or transmission facilities or

natural gas transmission facilities ("energy facilities") in Vermont, we will initiate a formal proceeding for doing so, using rule-making procedures or other process as warranted.

Proposed Scope of Issues

To achieve the investigation's goals, we have proposed, preliminarily, specific issues that will delineate the scope of this investigation:

1. What are the major community and public concerns regarding potential health impacts from energy facilities?
2. What consultation process with host communities and adjacent property owners regarding sound issues is appropriate before energy facilities are proposed or constructed?
3. What can be learned about actual sound impacts from existing energy facilities located in Vermont?
4. What credible scientific studies are available on the potential health impacts of energy facilities and what implications, if any, does this "state of the art" information have for retaining or revising the Board's existing sound standards? In particular, for wind generation facilities, what are the attributes of concern (e.g., sound levels, low frequency sound, infrasound, vibration, etc.) and is there a scientifically documented connection between these attributes and public health?
5. Should sound standards be designed to balance consistency of application to similar types of energy facilities with an element of flexibility to allow for adjustment for particular projects and locations? If so, how?
6. How are factors such as atmospheric conditions, terrain, wind shear, season, and time of day relevant to sound levels from the operation of wind turbines?
7. How should sound standards be designed to ensure that they are tailored effectively to the characteristics of different types of energy facilities?
8. Are there documented best practices, standards, regulations, and/or other protocols employed by other jurisdictions, including other states and countries, that could mitigate potential human health impacts and that should be used by the Board to develop sound standards for energy facilities?

9. How is exposure to energy facility sound best assessed?
10. Should the Board establish a standardized methodology and/or protocols for conducting pre-construction acoustic studies, data collection methods, and interpretation of results? If so, what should such a methodology and/or protocols consist of?
11. Should the Board establish a standardized methodology and/or protocols for conducting post-construction noise monitoring, including data processing, reporting, and complaint resolution? If so, what should such a methodology and/or protocols consist of?
12. What specific sound standards should the Board employ to meet its statutory obligations and to reflect the best scientific information available today?

Interested entities and individuals are invited to file written comments on the proposed scope of issues no later than March 3, 2014. After reviewing any such comments, we will issue a final scoping order and establish a schedule of workshops to examine the issues that are ultimately included within the scope of this investigation. Workshops will be designed to address discrete topics drawn from the final list of issues. We ask the participants to comment on whether one of the workshops should be dedicated to hearing from individuals who live near existing energy projects and wish to describe their experiences, concerns, and recommendations.

For purposes of facilitating communication by and among the participants in this proceeding, the Board is establishing an e-mail service list. Any interested person may contact the Clerk of the Board at psb.clerk@state.vt.us to request to be added to this list.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The investigation to consider development of sound standards applicable to facilities constructed pursuant to 30 V.S.A. §§ 248 and 219a shall be conducted as a non-contested case proceeding, using informational workshops to examine the to-be-identified scope of issues.
2. Written comments and recommendations on the Board's preliminary scope of the issues to be examined in this investigation shall be filed no later than close of business on March 3, 2014.

Dated at Montpelier, Vermont, this 29th day of January, 2014.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ John D. Burke</u>)	BOARD
)	
)	OF VERMONT
<u>s/ Margaret Cheney</u>)	

OFFICE OF THE CLERK

FILED: January 29, 2014

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)