

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 11- ____

PETITION OF
CENTRAL VERMONT PUBLIC SERVICE CORPORATION,
GAZ METRO LIMITED PARTNERSHIP,
GREEN MOUNTAIN POWER CORPORATION,
NORTHERN NEW ENGLAND ENERGY CORPORATION, AND
VERMONT LOW-INCOME TRUST FOR ELECTRICITY, INC.
FOR APPROVAL OF STOCK ACQUISITION,
TRANSFER OF FRANCHISE,
AND COMMENCEMENT OF BUSINESS
AS A PUBLIC UTILITY

Central Vermont Public Service Corporation (“CVPS”), Gaz Métro Limited Partnership (also known as “Société en Commandite Gaz Métro”) (“Gaz Metro LP”), Green Mountain Power Corporation (“Green Mountain”), Northern New England Energy Corporation (“NNEEC”), and Vermont Low-Income Trust for Electricity, Inc. (“VLITE”) hereby request approval of a two-step transaction (the “Transaction”) that will result in: Gaz Metro LP’s indirect acquisition of all the outstanding stock of CVPS; CVPS then being combined with Green Mountain; and a change in majority ownership of Vermont Transco LLC (“VTransco”) and Vermont Electric Power Company, Inc. (“VELCO”), which respectively own and operate certain electric transmission facilities located in New Hampshire.

Petitioners and Related Entities

Central Vermont Public Service Corporation (“CVPS”)

1. CVPS is a Vermont public utility corporation engaged in the production and sale of electric power in Vermont, with approximately 160,000 customers in 163 villages, towns and cities. Its corporate headquarters is located at 77 Grove Street, Rutland, Vermont 05701. CVPS is registered as a foreign corporation doing business in New Hampshire. It owns approximately 23 miles of transmission lines and poles in Cheshire, Sullivan, and Grafton Counties, over which it transmits power sold by other generators to Public Service Company of New Hampshire and the New Hampshire Electric Cooperative. CVPS does not own the power it transmits. Rates for the transmitted power, and rates for transmitting the power, are regulated by the Federal Energy Regulatory Commission. CVPS does not engage in any retail sales of electricity in this state. CVPS holds a part ownership interest in VELCO.

Gaz Métro Limited Partnership (“Gaz Metro LP”)

2. Gaz Metro LP is a limited partnership organized under the law of Quebec, Canada. Its headquarters is located at 1717 du Havre Street, Montreal, Quebec, Canada, H2K 2X3. With more than \$3.6 billion in assets, Gaz Metro LP is Quebec’s leading natural gas distributor. Gaz Metro LP has operated in this regulated industry since 1957. Its 10,000 kilometer network serves approximately 300 municipalities. Gaz Metro LP currently participates indirectly in the electric distribution market in Vermont through its wholly-owned subsidiary Northern New England Energy Corporation (“NNEEC”), and through NNEEC’s wholly-owned subsidiary Green Mountain Power Corporation. Gaz Metro LP’s direct owners are: (a) Gaz Métro inc (“GMi”), a Quebec corporation with a

70.99% interest; (b) Valener Inc. (“Valener”), a publicly traded company whose shares are listed on the Toronto Stock Exchange, with a 29% interest; and (c) Gaz Métro Plus inc. (“GMPI”), a Quebec corporation with a 0.01% interest, which is wholly owned by GMi.

3. Noverco Inc. (“Noverco”) owns all the issued and outstanding stock of GMi. Noverco is owned by two shareholders: IPL System Inc. (“IPL System”), a subsidiary of Enbridge Inc. (“Enbridge”) (holding 38.89% of Noverco’s voting securities), and Trencap L.P. (“Trencap”), a limited partnership (holding 61.11% of Noverco’s voting securities). Trencap’s sole general partner is Capital d’Amérique CDPQ Inc. (“CDA”). All of CDA’s voting securities are held by Caisse de dépôt et placement du Québec (the “Caisse”). The relationship of these entities is further described in the merger agreement attached as Exhibit A.

Green Mountain Power Corporation (“Green Mountain”)

4. Green Mountain, with a corporate headquarters in Colchester, Vermont, is engaged in the generation, distribution and sale of electricity to retail and wholesale electric service customers in Vermont. Gaz Metro LP’s wholly-owned subsidiary Northern New England Energy Corporation owns 100% of the common equity of Green Mountain. Like CVPS, Green Mountain holds an ownership interest in VELCO.

Northern New England Energy Corporation (“NNEEC”)

5. NNEEC is a wholly-owned subsidiary of Gaz Metro LP, with its headquarters in South Burlington, Vermont. NNEEC currently directly owns all the common stock of Green Mountain.

Vermont Electric Power Company, Inc. (“VELCO”)

6. VELCO is not a petitioner. However, the Transaction will result in a change in the ownership of more than 10% of its equity. VELCO is a holding company and public utility that operates all the major electrical transmission facilities in Vermont (*i.e.*, transmission facilities operating at 115kV and above). It also operates certain limited transmission facilities in Monroe, Littleton and Hinsdale, New Hampshire. VELCO is jointly owned by Vermont investor-owned utilities, rural electric cooperatives, and municipal electric systems. CVPS currently owns 47.05% of VELCO’s common equity and 31.45% of VELCO’s preferred stock. Green Mountain currently owns 29.18% of VELCO’s common equity and 25.10% of VELCO’s preferred stock. In 2006 VELCO transferred substantially all its assets in both Vermont and New Hampshire to Vermont Transco LLC (“VTransco”). VELCO manages VTransco’s operations under a management services agreement.

Vermont Transco LLC (“VTransco”)

7. VTransco is not a petitioner. However, the Transaction will result in a change in the ownership of more than 10% of its equity. VTransco is a limited liability company organized under the laws of Vermont. It owns the electrical transmission facilities operated by VELCO, including certain limited transmission facilities in Monroe, Littleton and Hinsdale, New Hampshire. *See Re Vermont Electric Power Company*, Order No. 24,628, 91 NH PUC 245 (2006). VTransco is owned by CVPS (37.85% direct and 4.41% indirect ownership interest), Green Mountain (29.55% direct and 2.85% indirect ownership interest), and VELCO (25.34% direct ownership interest). The

interests of CVPS and Green Mountain in VELCO account for their indirect interests in VTransco.

Vermont Low-Income Trust for Electricity, Inc. (“VLITE”)

8. Vermont Low-Income Trust for Electricity, Inc. is a Vermont public benefit, non-profit corporation, to be created in the course of the Transaction to assume part ownership of VELCO, as set forth below.

The Transaction

9. CVPS and Gaz Metro LP have entered into a definitive agreement for a merger transaction. In Step 1, a wholly-owned subsidiary of NNEEC, Danaus Vermont Corp., will merge with CVPS, with CVPS to be the surviving corporation. As a result of that merger, NNEEC will hold all the outstanding common equity of CVPS. When that acquisition is complete, CVPS will cease to be an independent, publicly-traded company, and will become an indirect wholly-owned subsidiary of Gaz Metro LP. Gaz Metro LP then plans to implement a second step, Step 2, which will result in CVPS and Green Mountain merging into a single entity.¹

10. In addition, CVPS and Green Mountain will each convey a portion of their ownership interests in VELCO to VLITE. VLITE will receive about 33% of the common equity in VELCO at nominal cost, and will be independent of CVPS and Green Mountain. As a result, the merged company will not have majority ownership of VELCO.

¹ It has not yet been determined whether CVPS, Green Mountain, or a new corporate entity will be the entity that survives the merger in Step 2. Regardless of what corporate form Step 2 takes, the entity that emerges from Step 2 will be a combination of CVPS and Green Mountain assets controlled by NNEEC.

11. In Vermont, this is a significant transaction. In New Hampshire, the Transaction is much less significant. It will have no effect on power sales or rates in New Hampshire.

Applicable Law

Approval of Purchase of CVPS Stock Under RSA 374:33

12. This Commission does not regulate CVPS's rates or service. However, by virtue of its ownership of transmission facilities, CVPS falls within the broad definition of a "public utility" set forth in RSA 362:2. RSA 374:33 provides that the Commission must approve any acquisition of more than 10% of the stock of a public utility doing business in New Hampshire. The petitioners therefore seek approval of the CVPS stock acquisition pursuant to RSA 374:33.

Approval of Transfer of VELCO and VTransco Stock Under RSA 374:33

13. VTransco owns limited transmission facilities in New Hampshire, which are operated by VELCO. *See Re Vermont Electric Power Company*, Order No. 24,628, 91 NH PUC 245 (2006), in which the Commission approved VELCO's transfer of its New Hampshire transmission facilities to VTransco pursuant to RSA 362:2 and RSA 374:30. Like the CVPS transmission facilities, the VTransco facilities are not used for retail power sales; this Commission does not regulate the rates or service associated with those facilities. However, the ownership and operation of transmission facilities by VTransco and VELCO respectively makes those companies public utilities under RSA 362:2.

14. CVPS currently owns 47.05% of the equity of VELCO, and 37.85% of the equity of VTransco. Consequently, the Transaction will result in a change of ownership

of more than 10% of the stock of both VELCO and VTransco. The petitioners therefore seek approval under RSA 374:33 for: (a) the change of ownership of VELCO that will be effected by the Transaction; (b) the change in ownership of VTransco that will be effected by the Transaction; and (c) the transfer of the interests of CVPS and Green Mountain in VELCO to VLITE sufficient to give VLITE up to a 33% equity interest in VELCO.

15. Under RSA 374:33, the Commission will approve a stock acquisition if it is “lawful, proper, and in the public interest.” In determining whether a proposed merger or acquisition is in the public interest, the Commission applies a “no net harm” test. In essence, that test requires approval of a proposed transaction if the public interest is not adversely affected. *Re CCI Telecommunications of N.H., Inc.*, Order No. 22,395, 81 NH PUC 844, 845 (1996). It “is not rational to prohibit the conveyance of securities if the proposed transaction is otherwise lawful and customers are not harmed thereby.” *Re Eastern Utilities Associates*, Order No. 20,094, 76 NH PUC 236, 253 (1991). “[I]t is not for the public good that public utilities be unreasonably restrained of liberty of action, or unreasonably denied the rights as corporations which are given to corporations not engaged in the public service.” *Grafton County Electric Light and Power Co. v. State*, 77 N.H. 539, 540 (1915).

16. The Transaction meets the public interest standard. As public utilities, CVPS, VELCO and VTransco have a very limited presence in New Hampshire. The acquisition of their stock will not change that presence. When Step 1 is implemented, CVPS will continue to operate, maintain, and manage the New Hampshire transmission facilities as before. Similarly, VTransco’s ownership and VELCO’s operation of the

VTransco transmission facilities will continue as before. The change will be in the ownership of the companies, not in their New Hampshire operations. The Transaction will have no effect on ratepayers in this state.

Merger of CVPS and Green Mountain Power

17. In Step 2 of the Transaction, CVPS will merge with Green Mountain. The combined company (the “Combined Company”) will succeed to the ownership and management of CVPS’s New Hampshire transmission facilities, and CVPS will cease to exist as a separate entity. It is anticipated that Step 2 will be consummated within three months after the consummation of Step 1.

18. Several statutes address a foreign business entity’s ownership and operation of public utility facilities in New Hampshire. RSA 374:22 requires any company to obtain Commission approval before commencing business as a public utility in the state. RSA 374:24 provides that the Commission may permit a foreign entity to furnish utility service in towns adjacent to the state boundaries when such service is in the public interest. RSA 374:25 allows a foreign business entity to operate a public utility plant in this state, provided that it does, or seeks to do, an interstate business. RSA 374:26 provides that the Commission shall grant such permission when it finds that doing so will serve the public interest. RSA 374:30 requires Commission approval when a public utility seeks to transfer any part of its franchise, works or system that is located in New Hampshire. One or more of these statutes may be implicated by Step 2 of the Transaction.

19. The standards for approval of the Transaction under these statutes do not differ in any material way from the RSA 374:33 standard. In sum, the Commission will

approve a petition under RSA 374:22, 24, 25, 26 and 30 if the proposed transaction shall be for the public good, shall be lawful, proper and in the public interest, and will not have an adverse effect on rates, terms, service, or operation. *See Re Union Telephone Company*, Order No. 25,045, 94 NH PUC 666 (2009); *Re Fairpoint Communications, Inc.*, Order No. 25,129, Slip Copy July 7, 2010, p. 38; *Re Great Bay Water Company*, Order No. 23,044, 83 NH PUC 575 (1998). The Commission evaluates merger petitions under a “no net harm” standard. *Re Excel Telecommunications, Inc.*, Order No. 22,410, 81 NH PUC 879 (1996).

20. As a practical matter, the Transaction is simply a corporate restructuring occurring outside of New Hampshire. That restructuring does not lessen the managerial or technical capabilities needed to operate transmission facilities located in New Hampshire. Neither the merger of CVPS and Green Mountain nor the transfer of VELCO ownership interests to VLITE will affect rates or service in this state. In Vermont, the combination of resources will result in a stronger, more efficient utility operation capable of taking advantage of economies of scale. The petitioners are entering into the Transaction to enhance the financial stability and capabilities of the companies involved, and believe that its consummation will ultimately provide a benefit to the customers of all the companies.

21. The Transaction is subject to review and approval by FERC, the Vermont Public Service Board, the Antitrust Division of the U.S. Department of Justice, the Federal Trade Commission, the Committee on Foreign Investment in the United States, the Federal Communications Commission, and the Nuclear Regulatory Commission. This level of regulatory scrutiny ensures that the transaction will be transparent, and that

any potential problems will be revealed before the changes in ownership takes place. If it chooses to do so, this Commission may condition its approval upon approval by the regulatory agencies listed above.

22. Due to the limited nature of the public utility interests of CVPS, VELCO and VTransco in New Hampshire, and the fact that control of those operations will continue after the acquisition with no adverse effect on New Hampshire ratepayers, the petitioners respectfully ask the Commission to expedite its review of this petition.

WHEREFORE, the petitioners respectfully request that the Commission approve the Transaction in its totality, and specifically:

- A. Expedite its review of the petition;
- B. Approve the Transaction insofar as it involves the acquisition of CVPS stock pursuant to RSA 374:33;
- C. Approve the Transaction insofar as it involves the acquisition of VELCO stock pursuant to RSA 374:33;
- D. Approve the Transaction insofar as it involves the acquisition of VTransco ownership units pursuant to RSA 374:33;
- E. Approve the Combined Company's commencement of business as a public utility in New Hampshire pursuant to RSA 374:22, with respect to the ownership and operation of what are currently CVPS's transmission facilities in this state;
- F. To the extent that the Transaction is deemed to constitute a transfer of the New Hampshire franchise of CVPS to the Combined Company, approve that transfer pursuant to RSA 374:30;

G. To the extent that any part of the Transaction is deemed to require approval under RSA 374: 24, RSA 374:25, or RSA 374:26, grant that approval; and

H. Take such further action as may be just and proper.

Respectfully submitted,

CENTRAL VERMONT PUBLIC
SERVICE CORPORATION, NORTHERN
NEW ENGLAND ENERGY
CORPORATION, AND VERMONT LOW-
INCOME TRUST FOR ELECTRICITY,
INC.

By Their Attorneys,

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Date: Sept. 9, 2011

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Certificate of Service

I certify that I have filed 7 paper copies and one electronic copy of this petition and its exhibits with the Commission, and have served an electronic copy on the Office of the Consumer Advocate.

Date: Sept. 9, 2011



John T. Alexander

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