

The Chronicle – The weekly journal of Orleans County  
Vol. 33, Number 14  
April 5, 2006

*News Analysis*

WIND HEARING MOVING ON TWO FRONTS

By Paul Lefebvre

MONTPELIER – The first hearing on UPC Wind's petition to build a 26-tower wind farm on the ridge lines of Sutton and Sheffield is scheduled to get under way Wednesday, April 5, before the Public Service Board (PSB).

As the second company to formally petition to harvest winds off Northeast Kingdom ridge lines, UPC is expected to argue that its towers will not have an adverse effect on wildlife or aesthetics or regional growth.

What it will not have to defend is its impact on public investment. That's because there are no Champion lands in Sheffield or Sutton, or large tracts of conserved land paid for by public dollars.

To mention such issues, however, is to get ahead of the game. Wednesday's hearing will be a more preliminary affair to lay the groundwork for what will follow in the weeks ahead. The one issue that might attract attention is how many towns in a ten-mile radius of the project towers will request party status.

Under the rules of the procedure, only those with party status can offer evidence, and one of the issues raised and still not resolved from the East Mountain project is how much weight should be accorded local support.

From a legal point of view, UPC is in experienced hands. They are being represented by the same Burlington law firm that appeared before the board on the East Mountain Project in East Haven. And that is bound to attract attention.

*Ongoing wind controversy about to come full circle*

For while Wednesday's hearing is expected to be cut and dry, it adds momentum to an ongoing controversy that is about to come full circle next week over wind power and its suitability along ridge lines in the state.

Next Tuesday, April 11, the same attorneys who are representing UPC will sit down with an earlier client – the Montpelier based company known as East Haven Windfarm – and argue that the board should overturn a hearing officer's recommendation to deny a petition to place four wind towers on the summit of East Mountain.

The stakes are high. For not only is East Mountain the first project to put state-of-the-art wind towers on a Vermont ridge line, but it also proposes to put them there as demonstration models to prove they work and are tolerable, if not pleasing, to look at.

For some in the fledgling wind industry it's a decision of benchmark proportions.

"The Hearing Officer's Proposal for Decision (PFD) in this matter, if accepted by the Board, would deal an unprecedented blow to the development of wind energy in the state," says Renewable Energy of Vermont in Comments submitted last month to the board.

The group's comments were submitted to comply with a March 27 deadline imposed on the case by the board. Other nonprofit, environmental groups joined in with similar comments urging that Hearing Officer Kurt Janson's recommendation be overturned.

Essentially, they along with the state's Department of Public Service argued that the public benefits outweigh the visual impact the project will have on the former Champion lands.

"Vermont cannot simply put its head in the sand and ignore these benefits – benefits that would protect the public's investment in the Champion Lands," argued the Conservation Law Foundation.

Reaction to the recommendation from East Haven Windfarm sought to turn the hearing officer's logic on its head. Mr. Janson argued in his recommendation that while wind power is the right project for Vermont's renewable energy push, East Mountain is the wrong spot to site it.

But in their written comments, the developers argued he has it backwards.

"If the Board is not able to find that the public benefits outweigh the impacts of this Project, it is valid to ask where in Vermont a project can be built," wrote Windfarm's vice president, David Rapaport, and his attorney, John Kassel.

"Certainly it would be understandable for investors to have their doubts about whether such a place exists."

There is little doubt that the issue of siting was the key factor in the Janson recommendation. Whereas developers point to the East Mountain summit as a brownfield dotted with dilapidated buildings from the days when it served as a Cold War radar base, Mr. Janson looked at the site in a much broader context. And in an exhaustive report running over 90 pages he concluded that four 329-foot wind towers would not fit in the middle of 133,000 acres of woods that had been conserved for their rugged and wild demeanor and their high ecological and social values.

“The protection of the former Champion Lands reflects a public investment in a landscape where ecological integrity and a level of natural functioning will be pursued to an unprecedented degree and scale by the State of Vermont,” wrote Robert Klein of the Nature Conservancy, one of the stakeholders in the Champion land deal.

“One can hardly suggest that the wind turbines will improve the public investment in ‘wild, remote nature’ at a scale and timeframe that is intended to be unique for the state.”

The trouble is when it comes to the environment, there is no consensus over what makes Vermont unique. Or gives it that special natural character that politicians among others like to tout. Pristine ridge lines or high-tech windmills? There is even disagreement among state agencies created to keep Vermont green and clean.

The Department of Public Service, the public watchdog on matters relating to energy, is calling on the board to allow the East Mountain project to go forward. Among other assertions the department argues that given its limited size, “the project does not materially interfere with the public investment in the Champion Lands.”

Yet, while calling for the recommendation to be overturned, the department hedges its support in the event the project is expanded. If the board approves the four towers, “it should do so in a way that preserves its ability to consider the cumulative impacts of all proposed commercial wind generation projects in the surrounding area,” advises the department in a footnote to its comments.

Just what that may mean for the Sheffield project remains to be seen. Will the board be asked in the future to determine how many wind towers are appropriate for the ridge lines of the Northeast Kingdom?

Because of the lack of data over the impact wind farms have on wildlife, the Agency of Natural Resources (ANR) has opposed the project. Its opposition, however, may not run very deep.

*On more round to go*

Its comments to the board over the hearing officer’s recommendation were terse, saying it supported his conclusions calling for more research on East Mountain before starting construction. And in the event that the board grants the petition, ANR asked it to impose the wildlife conditions recommended by Mr. Janson.

The agency offered no comment on the public investment in the Champion lands, although it was one of the key players in putting the deal together. Ironically, the secretary of the agency at the time the big land deal was hatched was the same Mr. Kassel who is representing the developers.

The oral arguments next Tuesday on the East Mountain Project are being held at the request of East Haven Windfarm. Under the rules of the process, any party requesting

oral arguments before the board must be heard. And since what is permitted for one must be permitted for all, the ongoing controversy over East Mountain still has one more round to go.

XXX