STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-xx-PET

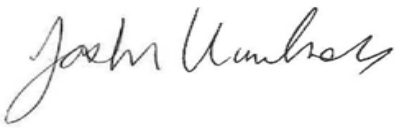
Petition of Murphy Road Energy Storage, LLC
for a certificate of public good pursuant to
30 V.S.A. §§ 231 and 248(j) for a 5 MW
battery storage facility off Murphy Road
in Bennington, Vermont.

MURPHY ROAD ENERGY STORAGE LLC'S PROPOSAL FOR DECISION AND CERTIFICATES OF PUBLIC GOOD

This document was filed in ePUC

Dated at Montpelier, Vermont this 22nd day of May, 2025.

MURPHY ROAD ENERGY STORAGE, LLC



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ORDER APPROVING ISSUANCE OF A CERTIFICATE OF PUBLIC GOOD

In this Order, the Vermont Public Utility Commission ("Commission") adopts the following proposal for decision.

PROPOSAL FOR DECISION

I. INTRODUCTION

This case involves a Petition filed by Murphy Road Energy Storage, LLC ("MRES" or "Petitioner") with the Vermont Public Utility Commission ("Commission") requesting a certificate of public good ("CPG") under 30 V.S.A. §§ 231 and 248(j) authorizing the construction and operation of a 5 MW battery storage facility off Murphy Road in Bennington, Vermont (the proposed "Project") and for *de minimis* regulation.

In today's proposal for decision, I recommend that the Commission conclude that the Project is of limited size and scope, the Project does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and the Project will promote the general good of the State. Therefore, I recommend that the Commission grant the Petitioner's petition for a CPG under Section 248(j) and Section 231 and for *de minimis* regulation, subject to the conditions set forth in this Order.

II. PROCEDURAL HISTORY

On May 22, 2025, the Petitioner filed a petition, site plan, prefiled testimony and exhibits, and list of adjoining landowners (the "Petition") pursuant to the requirements of Section 248(j) and Commission Rule 5.402(F), and sought a CPG under Section 231.

On May 22, 2025, a Notice of Appearance was entered by Joslyn L. Wilschek, Esq. with Wilschek Iarrapino Law Office, PLLC for the Petitioner.

On _____ 2025, the Commission notified the Petitioner that the filing was complete and directed the Petitioner to provide notice of the Petition to all entities specified in 30 V.S.A. § 248(a)(4)(C) and other interested persons. The Commission directed that the notice state that any person wishing to submit comments as to whether the Petition raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248 should do so on or before ____ 2025.

On ___, 2025, the Petitioner provided the required notice.

On _____, 2025, the Vermont Department of Public Service ("Department") filed comments ("Department Comments").

On _____, 2025, the Vermont Agency of Natural Resources ("ANR") filed comments on the Project ("ANR Comments").

No other comments on the petition were received by the Commission.

No party has requested an evidentiary hearing or objected to the prefiled testimony and exhibits. Accordingly, the following prefiled testimony and exhibits are admitted as if presented at a hearing: the Petition; the prefiled testimony of Taegen Kopfler ("Kopfler pf.") and exhibits MRES-TK-1 through 9; the prefiled testimony of Adam Crary ("Crary pf.") and exhibits MRES-AC-1 through 3; the prefiled testimony of Andew Mills ("Mills pf.") and exhibits MRES-AM-1 through 3; and the prefiled testimony of Jeremy Owens ("Owens pf.") and exhibits MRES-JO 1-2. Additionally, the Petition, the Department Comments, the Department's § 202(f) determination, and the ANR Comments are entered into evidence subject to timely objection by the parties.[1]

III. PUBLIC HEARING AND COMMENTS

There was no request for a public hearing in this proceeding, and no public hearing was held. No public comments about the Project were received by the Commission.

IV. FINDINGS

Based upon the Petition and the accompanying record in this proceeding, I have determined that this matter is ready for decision. Based on the evidence of record, I report the following findings to the Commission in accordance with 30 V.S.A. § 8(c).

Petitioner Background and Project Description

1. MRES is a Vermont limited liability company with offices located at 50 Lakeside Avenue, Suite 110 in Burlington, Vermont 05401. MRES is a single-purpose entity established for the purpose of permitting, constructing, owning, and maintaining the proposed Project. Petition at 1.

2. Encore Redevelopment LLC d/b/a Encore Renewable Energy ("Encore") is a Vermont limited liability company in good standing and is the sole member of MRES. Kopfler pf. at 3-4.

[1] If any party has an objection to any of these documents being entered into evidence, the party must submit its objection within 14 days of the date this Order is entered.

3. The Vermont Secretary of State's Office has accepted Petitioner's Articles of Organization. Kopfler pf. at 34; exh. MRES-TK-9.

4. The Petitioner is not a retail distribution utility that could incur expenses to be passed on to ratepayers. The Petitioner will not be providing or selling service directly to retail electric customers, and electric customers in Vermont are not funding the Project's construction or its operations. Kopfler pf. at 34-35.

5. The Petitioner is a wholly owned subsidiary of Encore and thus has the benefit of oversight by Encore's management team with more than 10 years of experience in the renewable energy sector. Encore has developed, constructed, and commissioned over 70 solar projects, comprising over 40 MW of generation, throughout New England. Encore has successfully brought each of these projects from inception through design and permitting, and into commercial operation. Encore has partnered with numerous municipal electric departments and electric utility companies to connect each of these projects to the electric distribution system, and Encore has partnered with numerous owners and operators to provide for the successful operation of each of these projects. The Petitioner has the necessary technical expertise to install and operate the Project, based on the deep technical experience in energy generation and storage systems, found within both its senior leadership and engineering teams. All inspections, repairs, or technical maintenance performed on Project equipment will be conducted by qualified technicians. The Petitioner will establish the necessary maintenance and operational protocols to ensure that routine maintenance and unexpected repairs are executed safely and promptly for the duration of the Project's lifespan. Kopfler pf. at 35-36.

6. The Project will use cloud-based energy management software and web-based monitoring and reporting systems to alert operators to any equipment failures. The Petitioner will respond to any notifications of equipment malfunction, failure, or service notifications to keep the project in good working condition. Kopfler pf. at 36.

7. The Petitioner is a wholly owned subsidiary of Encore and can secure sufficient financing to support Project development. The Project will be a privately financed "merchant" energy storage facility. The Petitioner will not seek to recover the costs of the Project through charges paid by Vermont retail electric ratepayers. This arrangement ensures that Vermont ratepayers will not experience any financial harm if the Project does not prove successful. Additionally, the requirement that the Petitioner establish a fully funded decommissioning fund

before beginning preparation or construction ensures that Vermont and its ratepayers will not experience financial harm if the Project is not successful. Kopfler pf. at 36-37.

8. The management and operational team that will work on the Project are within Encore, the sole member of the Petitioner. Encore, through special purposes entities, has obtained numerous certificates of public good under Section 248 for solar electric generation and battery facilities in Vermont. Encore also develops renewable energy projects in Maine and New York and obtains the required permits in those states. Encore has not been subject to any penalties in these states. Kopfler pf. at 37.

9. The Petitioner is a "competitive supplier of energy storage services that does not serve retail customers;" therefore, under 30 V.S.A. § 209(k), Petitioner is exempt from regulation under sections 107, 108, and 109 of Title 30. Kopfler pf. at 37.

10. The Petitioner proposes to install and operate the Project on an approximately 0.37-acre fenced-in portion of a 51-acre parcel of land with a total of 2.14 acres of total Project disturbance, including access drive improvements on the property on tax parcel ID 04013000 (Property). The Project is located adjacent to the existing 500 kW solar facility that received a CPG in case number 16-0049-NMP on November 17, 2016. The Project's colocation takes advantage of siting adjacent to another project that has demonstrated compliance with the site-specific criteria of Section 248. Kopfler pf. at 7; exh. MRES-TK-2.

11. The electricity stored and discharged by this facility will flow to Green Mountain Power's (GMP) electric grid. The Project is set back approximately 507 feet from Murphy Road, and 677 feet from the nearest residence. Kopfler pf. at 8; exh. MRES-TK-2.

12. The Project will consist of thirty-two battery storage units, or "blocks," installed within a fenced area which will occupy approximately 0.37-acre of the Project site. Each battery block is approximately 7.5 feet wide by seven feet deep by ten feet high mounted on a six inch concrete slab, enclosed within its own purpose-built container that will be painted green. The thirty-two blocks will be arranged in two sections, with sixteen blocks making up each section (two rows of eight blocks per section). The blocks connect to each other through buses. Each section will be approximately sixteen feet wide by sixty feet long and approximately ten feet high. Kopfler pf. at 8; exhs. MRES-TK-2 & 3.

13. An additional four battery blocks are proposed to be installed in a single row approximately ten years from now as part of "augmentation" as shown on the site plan. The AC size of the Project will not change with this augmentation and they would be installed within the

Project footprint, immediately to the east of the two larger sections. Kopfler pf. at 8; exh. MRES-TK-2.

14. The Petitioner will install an approximate 16,000-square-foot crushed stone pad upon which the battery enclosures, inverters, and transformers would be located within a perimeter fence. The Project consists of two pad-mounted transformer skids, each with a 3,100-kVA transformer that use a biodegradable dielectric fluid and each having two inverters, with secondary oil containment providing 110% of the equipment oil volume with freeboard for five inches of rain. Kopfler pf. at 8 &14; exhs. MRES-TK-2 & 3; exh. MRES-AM-2; Mills pf. at 5.

15. The Project requires a smaller, 500 kVA, pad-mounted auxiliary transformer and three 167 kVA pole-mounted transformers. Kopfler pf. at 9; exh. MRES-TK-2.

16. The Petitioner will use temporary storage areas for delivery and short-term storage of materials. Kopfler pf. at 9; exh. MRES-TK-2.

17. The Petitioner will need to widen, re-align, and improve approximately 250 linear feet of an existing access driveway to provide access to the Project, including some temporary widening to facilitate vehicle access during construction. The Petitioner will also need to extend the existing access road approximately 435 feet with varying widths from 16 feet to 20 feet, including turnaround areas. The Petitioner will use temporary storage areas for delivery and short-term storage of materials. Kopfler pf. at 9; exh. MRES-TK-2.

18. From the transformers, the electricity travels underground to a new utility pole with a utility meter (this new pole will be the point of common coupling for the Project), then the electricity connects overhead to a pole-mounted utility recloser (one new pole). The new line continues overhead to a pole with three 167 kVA pole-mounted transformers (this new pole will provide auxiliary power to the Project), and then the electricity continues overhead to a new riser pole. The new line then goes underground to cross the existing GMP transmission corridor before reaching a new riser pole. Then a new overhead electric line continues south along the next two new poles before connecting with the existing utility pole (the proposed point of interconnection) along Murphy Road. In sum, there are a total of seven new wooden above-ground poles that are approximately 35-45 feet above ground. The total amount of line extension is approximately 655 feet, with 429 feet overhead and 226 feet underground. Kopfler pf. at 9-10; exh. MRES-TK-2.

19. GMP will own the new above-ground electric line. The Petitioner will own and control the underground primary line from the transformers to the new utility pole with a utility

meter, whereas GMP will own the underground primary line that crosses the GMP transmission easement. The Petitioner will register with Dig Safe and comply with 30 V.S.A. Chapter 86 and Commission Rule 3.800. Kopfler pf. at 10.

20. With respect to GMP's interconnection upgrade, the new overhead line will then continue on the existing GMP distribution service on Murphy Road, where GMP will upgrade approximately 2,600 feet of existing three-phase service extending to the east to accommodate the interconnection. Specifically, while minor changes may modify the final design, the current plan is for GMP to replace fourteen existing poles, remove one pole, and add two new poles within the existing corridor. The Petitioner will own the transformers, whereas GMP will own the above referenced overhead line extension on the Project property and the associated poles and equipment on those poles. The new poles and the new electrical equipment are required by GMP, as explained under the system stability and reliability criterion below. Kopfler pf. at 10; exhs. MRES-AC-3.

21. The Petitioner will access the Property via the access drive. This access drive is proposed to serve both the ER Paper Mill Village Solar project and the Project. Kopfler pf. at 12; exh. MRES-TK-2.

22. The Project will require approximately 2,340 square feet of tree clearing. Limited tree clearing will be necessary along the tree line to the north of the Project to remove hazard trees that may be capable of falling on the Project, and to provide for improvements necessary for stormwater treatment features. Kopfler pf. at 13; exh. MRES-TK-2.

23. The Petitioner proposes to install an eight-foot-high perimeter fence around the Project. The perimeter fencing would restrict access to and from the Project to secure the Project and prevent the public from entering the array. The Petitioner will install a secured gate where the fence meets the access drive. The Petitioner, GMP, and first responders will be provided with access through the gate. The southern fence line of the Project will be installed with a tan or other earth-tone acoustic blanket (sound dampening fabric) to increase the attenuation of any sounds associated with Project equipment. Exhibit MRES-TK-8 (acoustic analysis) provides a representative sample of the type of acoustic blanket that the Petitioner plans to install on the Project's southern fence line. Kopfler pf. at 13; exh. MRES-TK-2; exh. MRES-TK-8.

24. The Petitioner does not require lighting for any aspect of the Project and thus does not propose a lighting plan for the Project. Kopfler pf. at 13.

25. The Project will require earthwork to install the access drive, underground conduit, necessary equipment pads for transformers and battery storage equipment, and associated stormwater treatment improvements. Grading will be required to create the levelled footprint area of the Project, approximately 0.37-acre inside the Project fence. The total area of potential earth disturbance is 93,290 square feet. Kopfler pf. at 14; exh. MRES-TK-2.

26. Once the Project is fully commissioned, operations and maintenance activities will be minimal. The Petitioner will perform routine system maintenance one to two times per quarter, which will consist of vegetation management, and mechanical and electrical inspections. The operator will remotely monitor operations, and in the event of a system malfunction, personnel will visit the site for troubleshooting or repairs. The Petitioner may schedule one extended maintenance period per year, which may be seven days in duration. Kopfler pf. at 15.

27. Construction activities and related deliveries will be limited to 7:00 A.M.–7:00 P.M. on weekdays, 8:00 A.M.–5:00 P.M. on Saturdays, and no construction on Sundays or state or federal holidays. Kopfler pf. at 15.

28. The Project is being developed as a competitive supplier of energy storage services and electricity in multiple regional wholesale markets where additional energy storage and timely discharge is needed. The Petitioner is also in conversation with GMP about a possible Energy Storage Services Agreement under which GMP might purchase services from the Project. Kopfler pf. at 11-12.

Review of Project Under the Section 248 Criteria

Orderly Development of the Region
[30 V.S.A. § 248(b)(1)]

29. The Project will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. This finding is supported by the additional findings below.

30. The Project is consistent with the Bennington Town (Town Plan) which was adopted on October 6, 2015 and amended June 24, 2024. The Town Plan does not contain land conservation measures that the Project would affect, and the Project does not conflict with the

development goals and policies in the Town Plan. Owens pf. at 3; exh. MRES-JO-2, pages 16-17.

31. The Project is consistent with the Bennington Regional Plan adopted November 21, 2024 (Regional Plan). The Regional Plan does not provide land conservation measures regarding the particular parcel where the Project would occur. Generally, the Regional Plan typically offers general guidance, recommendations, and resources to its member municipalities, as well as conservation groups and organizations to implement conservation measures within the region. As can be seen on Map 9-3 Conserved Lands in the Regional Plan, no conserved lands occur at the Project site (Regional Plan at 125), and no specific conservation measures were otherwise found in the Regional Plan that apply to the Project site. Owens pf. at 3; exh. MRES-JO-2, pages 15-17.

32. The Petitioner has given due consideration to the recommendations of the Bennington Planning Commission. Kopfler pf. at 17-18.

Need for Present and Future Demand for Services
[30 V.S.A. § 248(b)(2)]

33. The Project will meet the need for present and future demand for service which could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy efficiency and load management measures, including those developed pursuant to the provisions of subsection 209(d), section 218c, and subsection 218(b) of Title 30. This finding is supported by the additional findings below.

34. The Project is a form of load management and will be deployed competitively in response to recurring and demonstrated need for such services at the regional level. The Petitioner is not a regulated distribution utility and is not required to provide energy efficiency or load management services. The Project is not owned by a Vermont utility; Petitioner is developing the Project in a merchant capacity to participate in competitive regional markets without the use of any utility's ratepayers' funds. Kopfler pf. at 22-23.

35. The Petitioner plans to develop the Project as a front-of-the-meter (FTM) energy storage system operating as a merchant plant participating in ISO New England (ISO-NE) regional wholesale markets, specifically the Frequency Regulation Market, the Real-Time Energy Market, and the recently expanded Day-Ahead Energy Market. Kopfler pf. at 18.

36. Project participation in the competitive Frequency Regulation Market will help enable ISO-NE to meet the need to keep a steady, regulated flow of energy on the grid at all times, a critical function for regional system safety and reliability for customers. Kopfler pf. at 19.

37. Project participation in the competitive Real-Time Energy Market will help meet grid operators' needs for cost-effective resources that "can be immediately dispatched…to meet regional power demand and ensure grid stability, versus some power plants which require ramp-up time."[2] Kopfler pf. at 19.

38. Project participation in the competitive Day-Ahead Energy Market will help ISO-NE cost-effectively and proactively meet the need for grid system stability when the power system experiences sudden shifts in demand or unexpected reductions in supply. Kopfler pf. at 19.

39. The Project will be enrolled as an Alternative Technology Regulation Resource (ATTR), a special designation in ISO-NE that enables non-traditional assets like batteries to participate in the Regulation Market. As an ATTR, the Project will also participate in Regulation Energy Management (REM), which facilitates continuous regulation service while maintaining state-of-charge (SOC) neutrality over time. Kopfler pf. at 19-20.

40. In the Frequency Regulation Market, the Project will earn revenue from a combination of capacity payments, which compensate for the amount of regulation capacity made available, and performance payments, which are based on the resource's speed and accuracy in following ISO-NE's automatic generation control (AGC) signal. As an ATTR operating under REM, the Project will also receive energy compensation to offset the net energy injected or withdrawn due to regulation activity. This service favors high-performing resources with rapid response times—characteristics that battery systems like the Project inherently possess. Kopfler pf. at 20.

41. Project participation in the Real-Time and Day-Ahead Energy Markets involves charging the battery during periods of low locational marginal prices (LMPs), such as overnight or during midday solar oversupply, and discharging during periods of high prices, typically aligned with peak demand hours or grid stress events. Successful arbitrage relies on accurate forecasting of market prices and optimal scheduling of charging and discharging cycles. The

[2] Batteries as Energy Storage, ISO-NE https://www.iso-ne.com/about/where-we-are-going/batteries-as-energy-storage.

ability to co-optimize between arbitrage and regulation services—while carefully managing SOC—will be key to the Project's competitive pricing in the marketplace. Kopfler pf. at 20.

42. Operationally, the Project will maintain sufficient SOC flexibility to respond to both energy price signals and regulation dispatch requirements. Through its participation in REM, the Project will automatically rebalance its SOC during regulation service, reducing the need for manual intervention. Degradation management will also be a core consideration, with dispatch strategies designed to account for excessive cycling and its impact on Project battery life. Kopfler pf. at 21.

Impact on System Stability and Reliability
[30 V.S.A. § 248(b)(3)]

43. The Project will not have an adverse effect on system stability and reliability. GMP commissioned a System Impact Study (SIS) and an Addendum Study subsequently incorporated therein, to evaluate potential impacts of the Project to the grid. GMP also issued a Facilities Report. The Facilities Report concluded that the Project would not result in undue adverse impacts to the system provided that the measures identified in the conclusion of the Facilities Report are implemented prior to the Project's interconnection. The Facilities Report identified the following upgrades that are necessary to interconnect the Project to the GMP NB-G73 circuit: upgrade of approximately 2,600 feet of 1/0 AAC and ASCR to 336 ACSR and space cable; replacement of approximately seventeen poles along Murphy Road to accommodate the larger conductor; remove existing 65T fuses and install a Viper-ST electronic near Line 822 Pole 1 Tag 544201; install test, and commission a supervisory control and data acquisition (SCADA) system and interface this system with the electronic recloser; install a three-phase, four-wire, 15 kV-class bi-directional pad-mounted metering package, to be located at the PCC; establish a reclose block protection scheme for the NB-G73 circuit breaker; and install and commission the new protection equipment for the NB-G73 substation breaker. Kopfler pf. at 23-24; exh. MRES-TK-5.

44. The Petitioner will pay for the costs of the necessary upgrades and will enter into an interconnection agreement with GMP prior to Project construction. Kopfler pf. at 24.

Discussion

Before operating the Facility, I recommend that the Commission require the Petitioner to enter into an interconnection agreement with GMP that conforms to the requirements of

Commission Rule 5.500. The Petitioner will be responsible for the cost of GMP's electrical system upgrades reasonably necessary to implement interconnection for the Project and such other costs appropriately submitted to the Petitioner in accordance with Commission Rule 5.500.

Economic Benefit to the State

[30 V.S.A. §248(b)(4)]

45. The Project will result in an economic benefit to the State and its residents. The Project will provide a number of economic benefits to Vermont and its residents. These benefits include employment opportunities and municipal and state tax payments. Local contractors will be employed for the Project's construction phase and local professionals, including engineers, consultants, and attorneys have been hired for design and permitting services. The Project will generate municipal property tax revenue for the Town of Bennington, and State tax revenue for the Education fund. Additional electricians and workers will be needed during Project construction, as well as during the ongoing maintenance and operation of the Project. The Project's construction phase will also likely contribute to local economic activity via lodging, meals, and other ancillary purchases made by contractors. Kopfler pf. at 24-25.

Aesthetics, Historic Sites, Air and Water Purity, the Natural Environment, the Use of Natural Resources, and Public Health and Safety

[30 V.S.A. § 248(b)(5)]

46. Subject to the conditions described below, the Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, or public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts on primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts. This finding is supported by the additional findings below, which give due consideration to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K).

Outstanding Resource Waters

[10 V.S.A. § 1424a; 30 V.S.A. § 248(b)(8)]

47. The Project will not have an undue, adverse effect on outstanding resource waters as defined by 10 V.S.A. § 1424a(d) because there are no outstanding resource waters in the Project area. Crary pf. at 4; exh. MRES-AC-2.

Air Pollution and Greenhouse Gas Impacts

[30 V.S.A. § 248(b)(5); 10 V.S.A. § 6086(a)(1)]

48. The Project will not result in undue air pollution or greenhouse gas emissions. This finding is supported by the additional findings below.

49. The Project will not involve any industrial/manufacturing emissions, nor any excessive dust, smoke, or odors from construction activity. Other than minor temporary vehicle emissions during construction, the Project will not emit greenhouse gases or other air pollutants. Kopfler pf. at 25-26.

50. The Petitioner retained Resource Systems Group, Inc. (RSG) to estimate sound emissions from the electrical equipment that will generate noise, and model sound propagation to assess levels at the closest residences and property lines. Kopfler pf. at 26; exh. MRES-TK-6.

51. While thirty-two DC blocks and four inverters will be installed initially, the sound model accounted for an additional four DC blocks and one inverter for future augmentation that will be installed in approximately ten years. RSG concluded that the Project's highest modeled sound pressure level at the closest residence (which is approximately 200 meters south of the Project) is 40 dBA (exterior) (daytime and nighttime) so long as the Petitioner installs a sound absorption blanket to the interior surface of the fence line as detailed in the RSG report. The Petitioner agrees to install a sound absorption blanket in this manner. Kopfler pf. at 26; exh. MRES-TK-6.

52. The noise levels calculated at the nearest residence will be below both the maximum limits of 45 dBa (exterior) and 30 dBa (interior) as required by the Commission in similar cases. Kopfler pf. at 26; exh. MRES-TK-6.

Water Pollution

[10 V.S.A. § 6086(a)(1)]

53. The Project will not result in undue water pollution. This finding is supported by the findings under the criteria of headwaters through soils, below.

54. The Project will not result in undue adverse water quality conditions. Crary pf. at 4-7; exh. MRES-AC-2.

Headwaters
[10 V.S.A. § 6086(a)(1)(A)]

55. The Project is not located in a headwaters area. However, the Project will nevertheless be constructed to not adversely impact ground or surface water quality and meet applicable health and Department of Environmental Conservation regulations. Crary pf. at 4; exh. MRES-AC-2.

Waste Disposal
[10 V.S.A. §6086(a)(1)(B)]

56. The Project will not have an undue, adverse effect on waste disposal. This finding is supported by the additional findings below.

57. The Project will meet applicable Vermont Department of Environmental Conservation (DEC) regulations for the disposal of wastes and not involve injection of waste materials or any toxic substances into ground or surface waters. Mills pf. at 3-5; exh. MRES-AM-2.

58. The Project operation will not generate sanitary waste. Mills pf. at 3; exh. MRES-AM-2.

59. Due to the limited amount of existing impervious surface on the Project site and the relatively small amount of new impervious surface resulting from the Project, a state operational stormwater permit will not be required. Stormwater runoff from the Project during operation will generally be disconnected by overland flow across vegetated terrain. Mills pf. at 3-4; exh. MRES-AM-2.

60. The Project will generate minor amounts of scrap and waste material during installation, and this waste will be disposed of or recycled at an approved disposal facility in accordance with Vermont Solid Waste Management Rules. The Project is not anticipated to generate waste during operation. Woody debris generated by any shrub and tree clearing or trimming will be either offered to the landowners for use as firewood, or will be chipped, piled, or transported off site. Mills pf. at 4; exh. MRES-AM-2.

61. The Project on its own does not require a Spill Prevention Control and Countermeasure Plan. Regardless, the Project transformers will have secondary containment

systems to prevent the release of transformer oil to the environment. The two 3,100 kVA pad-mounted transformers will have integrated secondary oil containment on the pads they are mounted on, sized to contain 110% of the largest anticipated volume of a potential release of transformer dielectric fluid, plus a 5-inch rainwater event. Mills pf. at 4; exh. MRES-AM-2; exh. MRES-TK-3.

Water Conservation
[10 V.S.A. § 6086(a)(1)(C)]

62. The Project will not have an undue adverse effect on water conservation because it will not require water supply during operation, and may require limited water for dust suppression during construction, but that will not require an onsite water source as it will be provided by the contractor if necessary. Crary pf. at 5.

Floodways
[10 V.S.A. § 6086(a)(1)(D)]

63. The Project will not have an undue, adverse effect on floodways because it is not located within a floodway or floodway fringe as defined by 10 V.S.A. § 6086(a)(1)(D) and therefore will not restrict or divert the flow of floodwaters, significantly increase the peak discharge of a river or stream within or downstream from the Project, or endanger the health, safety, or welfare of the public or of riparian owners during flooding. Crary pf. at 5; exh. MRES-AC-2.

Streams
[10 V.S.A. § 6086(a)(1)(E)]

64. The Project will not have an undue adverse effect on streams because there are no streams in the Project area. Crary pf. at 5-6; exh. MRES-AC-2.

Shorelines
[10 V.S.A. § 6086(a)(1)(F)]

65. The Project will not have an undue, adverse effect on shorelines because there are no surface waters (lakes, ponds, reservoirs, or rivers) within the Project area that would constitute a shoreline as defined by 10 V.S.A. § 6001(17). Crary pf. at 6; exh. MRES-AC-2.

Wetlands
[10 V.S.A. § 6086(a)(1)(G)]

66. The Project will not have an undue adverse effect on wetlands. VHB conducted wetland assessments and delineations within the Project area in the summer of 2024. No wetlands are present within the Project site. Crary pf. at 6-7; exh. MRES-AC-2.

67. A potential wetland was approximately mapped on the opposite side of Murphy Road from where the Project is proposing upgrades to the existing site access drive entrance. This potential wetland has not been delineated or classified according to the Vermont Wetland Rules (VWR), so the Project is conservatively assuming it may be a Class II wetland and subject to a 50-foot regulated buffer, which could overlap with the access entrance (as currently depicted on the Project site plans, Exhibit MRES-TK-2). If subsequent evaluation and delineation determines this area to be a Class II wetland, the Petitioner would submit an application to the DEC for buffer impacts that should qualify for Vermont General Wetland Permit coverage. These impacts would occur within non-functioning portions of such a buffer, so the Project would not result in any adverse impacts to a potential wetland's buffer function and not require any further mitigation beyond obtaining general wetland permit coverage. Accordingly with permit issuance, the Project will conform to the VWR. Crary pf. at 6-7; exh. MRES-AC-2.

68. A USACE Section 404 Permit is not required as there is no proposed dredge or fill or dredge within Waters of the U.S. (including wetlands) that would trigger federal review. Crary pf. at 7; exh. MRES-AC-2.

Sufficiency of Water and Burden on Existing Water Supply
[10 V.S.A. §6086(a)(2) and (3)]

69. The Project will not burden the existing water supplies because the Project does not include any new water connections. The Project does not require a connection to new or existing water supply and will not use water during operation. The Project may require limited water for dust suppression during construction that will not require an onsite water source as it will be provided by the contractor if necessary. Crary pf. at 5.

Soil Erosion
[10 V.S.A. § 6086(a)(4)]

70. The Project will not have an undue adverse effect on soil erosion. The Project will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so

that a dangerous or unhealthy condition may result and thus the Project will not have an undue adverse effect on soil erosion. This finding is supported by the additional findings below. Mills pf. at 5.

71. Because the Project will involve more than one acre of earth disturbance, it will require authorization by the DEC under Construction General Permit 3-9020. The permit will require implementation of best management practices (BMPs) to control erosion and discharge of sediment from the construction site through following the Vermont Low-Risk Site Handbook or a site-specific EPSC Plan as determined by the Project's risk category. Mills pf. at 5; exh. MRES-AM-2.

72. Due to the amount of existing and proposed impervious surfaces, the Project will not require an operational stormwater discharge permit. Runoff from proposed impervious surfaces will be directed to adjacent vegetated areas and will effectively be disconnected. Mills pf. at 5.

Transportation

[10 V.S.A. § 6086(a)(5)]

73. The Project will not have an undue adverse effect on transportation and the Project will not cause unreasonable congestion or unsafe conditions with respect to use of the highways, waterways, railways, airports, airways, and other means of transportation existing or proposed. This finding is supported by the additional findings below.

74. The Project poses no long-term traffic impacts in Bennington. The Petitioner proposes to deliver materials to the Project site via Murphy Road and other state and local roads, which are accustomed to the type of traffic representative of the proposed daily material delivery. The Petitioner expects to use Vermont Route 9, then Austin Hill Road, and then onto Murphy Road. The Project is not expected to require oversize or overweight deliveries. The Project will not require road closures or lane shutdowns for extended periods of time. No other long-term interruptions or impacts to highways or local roads are anticipated. The Project will require a curb cut permit because the access drive will need to be temporarily widened to facilitate vehicle turning during construction. Kopfler pf. at 27-28; exh. MRES-TK-2.

Educational Services
[10 V.S.A. § 6086(a)(6)]

75. The Project will not place an unreasonable burden on the ability of a municipality to provide educational services because the Project will not require or affect educational services. Kopfler pf. at 28.

Municipal Services
[10 V.S.A. § 6086(a)(7)]

76. The Project will not place an unreasonable burden on the ability of the affected municipality to provide municipal or government services because the Project does not require any fire or police services beyond those typically required of other businesses. Kopfler pf. at 28.

77. The Petitioner will provide first responders access to the Project site in the event of an emergency. A lockable disconnect switch will allow shutdown of the Project in case of fire or other emergency. Following construction and prior to operation, Petitioner will coordinate with the local fire department to provide them with protocols and best practices to be followed in relation to the Project. Kopfler pf. at 28-29.

Natural Environment
[30 V.S.A. § 248(b)(5)]

78. The Project will not have an undue adverse impact on the natural environment. Crary pf. at 4-8; exh. MRES-AC-2.

Use of Natural Resources
[10 V.S.A. § 1424a(d)]

79. The Project will not have an undue adverse impact on the use of natural resources. The Project will not require any natural resources beyond limited gravel, concrete, and crushed stone for the surface of the equipment area, and for the surface of the extended access drive to the Project site. Kopfler pf. at 27.

Aesthetics, Historic Sites, and Rare and Irreplaceable Natural Areas
[30 V.S.A. § 248(b)(5), 10 V.S.A. § 6086(a)(8)]

80. The Project will not have an undue adverse impact on aesthetics or on the scenic or natural beauty of the area, nor will the Project have an undue adverse effect on historic sites or rare and irreplaceable natural areas. This finding is supported by the additional findings below.

Aesthetics

81. The Project will not have an undue adverse impact on aesthetics or on the scenic or natural beauty of the area. This finding is support by the additional findings below.

82. The Project would have an adverse effect on the scenic or natural beauty or aesthetics of the area from the nearby portions of Murphy Road to the south and east of the Project. However, the adverse effect would be limited to the area of Murphy Road that is closest to the Project, and no other surrounding publicly accessible areas are expected to have visibility of the Project, even during leaf-off conditions. Owens pf. at 4; exh. MRES-JO-2, pages 4-6.

83. The Project would not violate any clear written community standard intended to preserve the aesthetics or scenic or natural beauty of the area. The Regional Plan, Regional Energy Plan, Town Plan and Town Plan Energy Element do not provide clear written standards for the protection of scenic resources at the Project site or the surrounding area. The Project is sited within an existing field near a solar generation facility, and will be significantly screened from the surrounding uses, and is not part of a scenic resource or gateway as indicated within the Town's scenic resource inventory 2004 document. Additionally, the Project would not conflict with the goals of the land use patterns surrounding the Project, and would not unnecessarily impact any highly scenic landscapes or viewsheds within the region. Owens pf. at 4; exh. MRES-JO-2, pages 12-13.

84. The Petitioner has incorporated generally available mitigating steps, including setting the Project more than 500' from Murphy Road, using a green color for the battery enclosures as recommended by the Town of Bennington Planning Commission, and implementing a landscape replacement plan to replace existing vegetation that may be removed for the proposed access drive (Appendix D). Owens pf. at 4; exh. MRES-JO-2, page 13.

85. The Project would not offend the sensibilities of the average person due to the limited visibility of the proposed equipment, proximity to the nearby solar generation facility and sub-transmission line, replacement of any vegetation that needs to be removed through implementation of the landscaping plan, and use of a green color that will help the Project equipment blend with the existing conditions. Owens pf. at 4; exh. MRES-JO-2, page 14.

Historic Sites

86. The Project will not have an undue adverse effect on historic sites. UVM Cap recommended that Project plans should clearly delimit a protective buffer for a sensitive

archeological site to ensure its preservation before and after construction. The Petitioner has done so on the site plans, Exhibit MRES-TK-2. Kofler pf. at 29-30; exh. MRES-TK-7.

Rare and Irreplaceable Natural Areas (RINA)

87. The Project will not have an undue adverse effect on rare and irreplaceable natural areas because there are no areas that would be considered RINA within the Project area Crary pf. at 7; exh. MRES-AC-2.

Necessary Wildlife Habitat and Endangered Species

[10 V.S.A. § 6086(a)(8)(A)]

88. The Project will not have an undue adverse effect on any endangered species or necessary wildlife habitat. This finding is supported by the findings below.

89. There are no rare, threatened, or endangered plant or animal species known to occur within or adjacent to the Project site. Crary pf. at 7-8; exh. MRES-AC-2.

90. There is no necessary wildlife habitat within the Project site. Crary pf. at 7; exh. MRES-AC-2.

Development Affecting Public Investments

[10 V.S.A. § 6086(a)(9)(K)]

91. The Project will not have an undue adverse impact on public investments. The Project will not unnecessarily or unreasonably endanger any public or quasi-public investment in the facility, service, or lands, or materially jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of, or access to any such facility, service or lands. This finding is supported by the additional findings below.

92. The Petitioner's use of public roads will be minimal. Kopfler pf. at 27 & 30.

93. No other public investments will be affected by the Project. Kopfler pf. at 30.

Public Health and Safety

[30 V.S.A. § 248(b)(5)]

94. The Project will not have any adverse effects on the health, safety, and welfare of the public because (1) all work will be performed in accordance with the National Electrical Safety Code, the National Electrical Code, and NFPA Standard 855; (2) an existing perimeter fence around the site will ensure security with appropriate electrical warning signs; and (3) the

Project will not exceed acceptable sound thresholds at nearby residences. The Petitioner will confer with appropriate representatives of the local fire department regarding fire safety protocols and best practices in relation to the Project after construction is complete and prior to operation. Kopfler pf. at 25.

Primary Agricultural Soils
[30 V.S.A. § 248(b)(5)]

95. The Project will not have an undue adverse effect on primary agricultural soils as defined by 10 V.S.A. § 6001(15). This findings is supported by other findings below. Mills pf. at 6-7; exh. MRES-AM-3.

96. The Project will involve direct impacts to Primary Agricultural Soils (PAS) as mapped by the Natural Resources Conservation Service of the U.S. Department of Agriculture (NRCS) and per the definition in §6001(15). As proposed, the Project will total approximately 1.16 acres of direct permanent impacts (for the Project's life) and 0.1 acres of temporary direct impacts for a total of 1.26 acres of direct impacts. Mill pf. at 6; exh. MRES-AM-3.

97. The Project proposes to mitigate temporary disturbance from trenching by temporarily stockpiling PAS on site and within the same NRCS soil map unit per horizon, and then replacing soil at the end of construction in the reverse order of excavation. The Project further proposes to stockpile soils excavated for permanent (Project-lifespan) impacts by stockpiling soil segregated per horizon. The stockpile(s) would be stabilized and vegetated. Upon Project decommissioning, soil would be replaced in the reverse order of excavation within each soil map unit. Mill pf. at 6; exh. MRES-AM-3; exh. MRES-TC-2.

Consistency with Resource Selection/ Integrated Resource Plan
[30 V.S.A. § 248(b)(6)]

98. The Petitioner is not a regulated utility, and the Commission has not required non-utilities to have a least-cost integrated resource plan. Therefore, this criterion is inapplicable.

Compliance with Twenty Year Electric Plan
[30 V.S.A. § 248(b)(7)]

99. The Project is consistent with the 2022 Comprehensive Energy Plan approved by the Department under 30 V.S.A. § 202(f). This finding is supported by the additional findings below.

100. Vermont's Comprehensive Energy Plan (CEP) recognizes the importance of energy storage technology because it helps manage peaks, time-shift demand and supply, and smooth renewables integration, and provides frequency regulation and other grid support, and—if properly configured—provides resilience during grid outages. See CEP pages 60 and 70. The Project complies with the CEP as it is an energy storage facility that can shave electricity demand peaks, support grid voltage to provide backup power, and "firm" the output of intermittent renewables. Kopfler pf. at 31.

101. On_____, the Department issued a determination under 30 V.S.A. § 202(f) that the Project is consistent with the 20-Year Plan.

Existing or Planned Transmission Facilities; Impact on Vermont Utilities and Customers
[30 V.S.A. § 248(b)(10)]

102. The Project can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers. This finding is supported by the findings below. Kopfler pf. at 31.

103. The Project will have no adverse impact on Vermont utilities or their customers provided that the recommendations in the Facilities Report and GMP SIS Addendum are implemented and paid for by the Petitioner. All modifications recommended therein must be paid for by the Petitioner. Kopfler pf. at 31.

104. The Petitioner will coordinate with GMP on operating the Project in a manner consistent with the limitations and operating orders established by the distribution utility and that accounts for any known limitations of the distribution system and ensures reliability and system stability. The Petitioner will enter into applicable coordination agreements with the host distribution utility, and will follow the metering and telemetry requirements of the host distribution utility. Kopfler pf. at 31-32.

GMP Distribution Line Upgrade

105. VHB conducted a preliminary review within an approximately 150'-wide distribution corridor study area along the portions of the existing GMP distribution line along Murphy Road that requires upgrades to interconnect the Project ("Distribution Upgrade Study Area") Crary pf. at 9; exh. MRES-AC-3.

106. Within the Distribution Upgrade Study Area, wetland and surface water resources were field identified and mapped using the methodology described in the supplemental memo (Exhibit MRES-AC-3). Given the winter survey season and ground conditions, the mapping and results should be considered preliminary and approximate but useful for identifying potential resources and buffers where certain construction practices should be used and for evaluating jurisdictional permit triggers. VHB will conduct a detailed delineation, within areas of proposed VWR-jurisdictional impact in the 2025 growing season, tentatively scheduled in mid-June. Crary pf. at 9-10; exh. MRES-AC-3.

107. The assessment identified the presence of Stream, Floodway, and Shoreline areas that are associated with the existing distribution line's crossing of the Walloomsac River along Murphy Road. These resources and associated buffers along with existing and proposed distribution upgrades are depicted on Attachment 1 to Exhibit MRSE-AC-3. Crary pf. at 9-10; exh. MRES-AC-3.

108. Based on the review of the distribution line upgrades and the fact that the Petitioner takes responsibility to ensure that GMP completes the upgrades in accordance with its typical line maintenance practices (including vegetation management and BMPs to avoid soil disturbances), the Project will not result in any undue adverse impacts to natural resources. Proposed structure replacements, removal, and the new (one) pole within potential Categorical Class II wetlands or buffers following BMPs would qualify as an Allowed Use under Section 6.8 of the VWR. As the upgrade activity is limited to replacing existing poles with no expanded tree clearing or new access construction, upgrade activity within stream riparian buffer, floodways, and shoreline areas will not result in any new impacts to these resources. Kopfler pf. at 6; Crary pf. at 10; exh. MRES-AC-3.

109. A segment of the line is required to be underground due to the conflicting height of another existing overhead electric line. The segment of underground electric (UGE) will be installed by open trenching a portion of which will be within a potential Class II wetland buffer. This is a VWR jurisdictional activity which would require Vermont Wetland Permit coverage for

trenching/temporary soil disturbance through a managed (open field) Class II wetland buffer in a roadside location. As such, the distribution line upgrades will comply with the VWR and will not result in undue adverse impacts to wetlands, significant or otherwise. Crary pf. at 10-11; exh. MRES-AC-3.

110. Other natural resources reviewed by VHB were not found during desktop or field review within the Project area, including outstanding resource waters, rare and irreplaceable natural areas, endangered species, or necessary wildlife habitat. Crary pf. at 10-11; exh. MRES-AC-3.

111. The Petitioner will ensure that GMP follows the BMPs Associated with the Use of Pentachlorophenol treated Utility Poles in Vermont established in Docket No. 8310 for the installation of all new Project poles and the retirement and disposal of all existing poles. Mills pf. at 5; Kopfler pf. at 6.

V. MEMORANDUM OF UNDERSTANDING

112. [Intentional placeholder]

Discussion

I recommend that the Commission accept the ___ MOU with all its provisions and conditions without material change or condition and require the Petitioner to comply with the terms and conditions of the MOU as a condition of its approval of the Project.

VI. DECOMMISSIONING COST ESTIMATE AND LETTER OF CREDIT

113. The Petitioner will remove the Project once it is no longer in service and restore the site to its condition prior to Project installation to the greatest extent practicable as required under Commission Rule 5.904(B). The Petitioner has supplied a Decommissioning Plan that meets the requirements of Commission Rule 5.904(B). Kopfler pf. at 32; exh. MRES-TK-8.

114. Under the Decommissioning Plan, the Project will be dismantled, and the facilities, wiring, and other equipment will be removed and disposed of in compliance with all applicable waste regulations. Any negatively affected lands will be restored, with primary agricultural soil stockpiles replaced as described above, and the site will be left in a safe, clean condition and allowed to return to natural conditions on its own. Kopfler pf. at 32-33; exh. MRES-TK-8.

115. The Petitioner has proposed a funding mechanism based upon an estimate of the Project's decommissioning costs that does not account for equipment salvage; the total is $299,290. As required by Commission Rule 5.904(B), the decommissioning cost estimate is in present-day dollars and addresses the elements in that rule. The decommissioning fund will be in place at the time construction begins and will be funded by a surety bond or other form of security such as an escrow agreement or letter of credit that includes an automatic renewal provision ("evergreen clause") or other alternative form of financial security that equals or exceeds the assurance of financial resources for decommissioning as a letter of credit. Kopfler pf. at 33-34; exh. MRES-TK-8.

116. Before beginning site preparation, the CPG Holder must file with the Commission and obtain Commission approval of an executed surety bond or alternative form of security, and will submit documentation that the surety or other issuer of financial security has a rating of A or greater as set forth in the Commission's Order Clarifying the Meaning of "A-Rated" Status for Financial Institutions Issuing Letters of Credit, Case No. 24-1240-INV (4/25/24). Kopfler pf. at 34.

Discussion

Commission Rule 5.900 establishes standard requirements for the decommissioning of electric generation, electric transmission, and natural gas facilities. Rule 5.904(B) requires that non-utility-owned generation facilities greater than 500 kW in capacity be removed once they are no longer in service and the site be restored, to the greatest extent practicable, to the condition it was in before installation of the facility. Commission Rule 5.904(B)(3) allows the Commission in its discretion to approve alternative forms of financial security from that required in Rule 5.904(B)(2) if it finds that such alternative forms will provide an assurance of the availability of financial resources for decommissioning that equals or exceeds that provided by the form required by Rule 5.904(B)(2).

The Petitioner has submitted a plan for decommissioning the Project with a detailed cost estimate of $299,290 to decommission the Project. The Petitioner has also submitted a draft surety bond that complies with our requirements of alternative forms of financial security.

Therefore, I recommend that the Commission include in the CPG for the Project conditions requiring compliance with the terms and conditions of the proposed decommissioning plan and

relevant provisions of Commission Rule 5.904(B). I further recommend that all applicable conditions from Commission Rule 5.904(B) be included in the CPG.

VII. SECTION 231

Discussion on Petition for a CPG pursuant to Section 231

The statutory standard for Commission issuance of a CPG under Section 231 is whether the proposed ownership and operation of the business will promote the general good of the State. Toward that end, the Commission has established the following set of criteria to be used as guidelines when determining whether an entity should be granted a CPG: (1) technical expertise; (2) adequate service; (3) facility maintenance; (4) balance between customers and shareholders; (5) financial stability; (6) the company's ability to obtain financing; and (7) business regulation; and (8) relationship with customers. The Commission treats the above criteria as guidelines only, because the factors considered in making a general-good finding under Section 231 necessarily vary from case to case, depending on specific circumstances. Additionally, 30 V.S.A. § 203 permits the Commission to exercise its jurisdiction "so far as may be necessary to enable [it] to perform [its] duties and exercise the powers conferred upon [it] by law." Accordingly, the Commission's regulatory authority over the Petitioner may be applied to reflect the limited activities that the Petitioner plans to undertake in Vermont, and the Commission can issue a Section 231 CPG that reflects those limited activities.

In this case, the Petitioner represents that it will not enter into contracts with or sell directly to retail customers in Vermont. As a result, our review in this proceeding has not focused on customer relations, the balance between customers and shareholders, or the adequacy of service to retail customers. Instead, our assessment has focused on the Petitioner's technical competence, including its ability to maintain the Project, its financial soundness, and its business competence and regulatory compliance. The evidence demonstrates that the Petitioner meets the criteria that are applicable to its ownership and operation of the Project. The Petitioner and its parent company, Encore, have substantial experience in the development of energy storage and generation projects. The Project will be a privately financed merchant energy storage facility; therefore, the Petitioner will not seek to recover the costs of the Project through charges paid by Vermont retail electric ratepayers. Because the Petitioner will not enter into contracts with, or sell directly to, retail customers, Vermont ratepayers will not experience any financial harm if the Project does not prove successful. Additionally, the requirement that the Petitioner establish a

fully funded decommissioning fund prior to commencing site preparation or construction ensures that Vermont and its taxpayers will not experience financial harm if the Project is not successful.

I recommend that the Commission conclude that the Petitioner has the technical, operational, and regulatory expertise and the financial soundness required for a CPG. Additionally, the Petitioner's financial soundness will be backstopped by the decommissioning fund to provide assurances that Vermont ratepayers and taxpayers will not be harmed if the Project is not financially successful. Accordingly, I recommend that the Commission find that a CPG authorizing the Petitioner to own and operate the Project is in the general good of the State.

Exemption from Sections 107, 108, and 109

Under 30 V.S.A. § 209(k), "[e]xcept when owned by a retail distribution utility, an energy efficiency utility, or the Vermont Electric Power Company, Inc., competitive suppliers of energy storage services that do not serve retail customers shall be exempt from sections 107, 108, and 109 of this title. Because the Petitioner is a competitive supplier of energy storage services that does not serve retail customers, it shall be exempt from sections 107, 108, and 109 of this title.

VIII. CONCLUSION

Based upon the findings above and subject to conditions, I recommend that the Commission conclude that the Project will be of limited size and scope, that the Petition does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, that the public interest is satisfied by the procedures authorized by 30 V.S.A. § 248(j), and that the Project will promote the general good of the State.

This Proposal for Decision has not been circulated to the parties pursuant to 3 V.S.A. § 811 because it is not adverse to any party.

Date:

Hearing Officer:

IX. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission (Commission) of the State of Vermont that:

1. The findings, conclusions, and recommendations of the Hearing Officer are adopted. All findings proposed by parties, to the extent that they are inconsistent with this Order, were considered and not adopted.

2. In accordance with the evidence and plans submitted in this proceeding, the 5 MW battery storage facility (the "Project") proposed for construction and operation by Murphy Road Energy Storage, LLC (the "CPG Holder") at 419 Murphy Road in Bennington, Vermont, will promote the general good of the State of Vermont pursuant to 30 V.S.A. §§ 231 and 248(j), and a certificates of public good to that effect will be issued in this matter.

3. As a condition of this Order, the CPG Holder must comply with all terms and conditions set out in the CPGs issued in conjunction with this Order.

DATED at Montpelier, Vermont, this _____ day of _____, 2025.

_____	)
	) PUBLIC UTILITY
_____	) COMMISSION
	) OF VERMONT
_____	)

OFFICE OF THE CLERK
FILED: _____

ATTEST: _____
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and order.

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-xx-PET

Petition of Murphy Road Energy Storage, LLC for a certificate of public good pursuant to 30 V.S.A. §§ 231 and 248(j) for a 5 MW battery storage facility off Murphy Road in Bennington, Vermont.	

CERTIFICATE OF PUBLIC GOOD ("CPG") ISSUED PURSUANT TO 30 V.S.A. § 248(J)

IT IS HEREBY CERTIFIED that the Vermont Public Utility Commission ("Commission") this day found and adjudged that the site preparation, construction, operation, and maintenance of a 5 MW battery energy storage facility at 419 Murphy Road, in Bennington, Vermont (the "Project"), by Murphy Road Energy Storage, LLC ("CPG Holder") in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State, subject to the following conditions:

1. Site preparation, construction, operation, and maintenance of the Project must be in accordance with the plans and evidence submitted in this proceeding. Any material deviation from these plans or a substantial change to the Project must be approved by the Commission. Failure to obtain advance approval from the Commission for a material deviation from the approved plans or a substantial change to the Project may result in the assessment of a penalty pursuant to 30 V.S.A. §§ 30 and 247.

2. Before beginning site preparation, construction, operation, or maintenance of the Project, the CPG Holder must obtain all other necessary permits and approvals. Site preparation, construction, operation, and maintenance of the Project must be in accordance with such permits and approvals, and with all other applicable regulations, including those of the Vermont Agency of Natural Resources (ANR).

3. The CPG Holder must restrict construction activities and related deliveries for the Facility to the hours between 7:00 A.M. and 7:00 P.M. Monday through Friday and between 8:00 A.M. and 5:00 P.M. on Saturdays. No construction activities or deliveries are allowed on Sundays, state holidays, or federal holidays.

4. Before beginning site preparation, the CPG Holder must file with the Commission, the parties, and the Town of Bennington a letter stating that it has fulfilled all pre-site preparation CPG conditions, and that it intends to begin site preparation for the Project.

5. Before operating the Project, the CPG Holder must file with the Commission, the parties, and the Town of Bennington a letter confirming that it has fulfilled all pre-operation CPG conditions and that it intends to begin operation of the Project.

6. The CPG Holder is responsible for all costs of distribution and transmission system upgrades that are necessary to address adverse impacts on system stability and reliability due to the Project, as determined by the system impact study and facilities report.

7. Before operating the Project, the CPG Holder shall enter into an interconnection agreement with Green Mountain Power Corporation that conforms to the requirements of Public Utility Commission Rule 5.500. The CPG Holder shall be responsible for the cost of electrical system upgrades reasonably necessary to implement interconnection for the Project and such other costs appropriately submitted to the CPG Holder in accordance with Commission Rule 5.500.

8. The CPG Holder shall remove the facilities authorized by this CPG once they are no longer in service and restore the site to its condition prior to installation of the facility to the greatest extent practicable, consistent with the terms and conditions of its proposed decommissioning plan, identified in the evidentiary record as exhibit MRES-TK-8, which is hereby approved.

9. Before beginning site preparation, the CPG Holder must file with the Commission and obtain Commission approval of an executed surety bond or alternative form of security, and will submit documentation that the surety or other issuer of financial security has a rating of A or greater as set forth in the Commission's Order Clarifying the Meaning of "A-Rated" Status for Financial Institutions Issuing Letters of Credit, Case No. 24-1240-INV (4/25/24).

10. Every three years the CPG Holder must file a report with the Commission, the Department, and each party to this proceeding, describing any adjustments and changes to the decommissioning fund in the previous three-year period. This report must be filed no later than February 28 of the third year following the issuance of the CPG and every subsequent third year.

11. The value of the decommissioning fund must be adjusted for inflation every three years based on the net positive change in the annual average of the U.S. Bureau of Labor Statistics' Northeast Urban Consumer Price Index for the preceding three-year period.

12. The Project's surety bond or other form of financial security must be adjusted every three years to reflect changes to the decommissioning fund as provided in condition 11, above. Revisions must be made no later than February 28 in conjunction with the report required pursuant to condition 10, above. The Commission may require more frequent adjustments due to facility or site conditions.

13. The Commission has the right to draw on the surety bond or other form of financial security to pay for decommissioning in the event that the CPG Holder has not begun decommissioning activities within 90 days of a Commission order directing decommissioning.

14. Upon completion of all decommissioning and site restoration activities, the CPG Holder must request a determination from the Commission that the CPG Holder's decommissioning obligations have been satisfied. Upon the Commission's determination that the decommissioning obligations have been satisfied, the Commission will terminate the facility's letter of credit or other form of financial security.

15. The CPG Holder must pay all invoices (if any) from any State agency that (a) are related to this proceeding and (b) are not still under review by the Commission.

16. This CPG may not be transferred without prior approval of the Commission.

DATED at Montpelier, Vermont, this _____ day of _____, 2025.

_____	)
	) PUBLIC UTILITY
_____	) COMMISSION
	) OF VERMONT
_____	)

OFFICE OF THE CLERK

FILED:

ATTEST:

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)