

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-1023-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.)

COMMENTS OF THE VERMONT DEPARTMENT OF PUBLIC SERVICE

On May 22, 2025, Murphy Road Energy Storage, LLC (“Petitioner” or “MRES”) filed a petition with the Vermont Public Utility Commission (the “Commission”) seeking certificates of public good (“CPGs”), pursuant to 30 V.S.A. §§ 231 and 248(j), authorizing the Petitioner to install, own, and operate a 5 MW electric battery storage facility to be located off of 2077 Murphy Road in Bennington, Vermont (the “Project”). The Petitioner proposes to install and operate the Project on a 0.37-acre portion of land, fenced off within a larger 51-acre parcel of land. The Petitioner also seeks *de minimis* regulation of the Project under 30 V.S.A. §§ 107, 108, and 109.

I. Request for a 30 V.S.A. § 231 CPG

When evaluating a petition under 30 V.S.A. § 231, the Commission applies the following criteria to assess whether the proposed ownership and operation of the business will promote the general good of the State: 1) technical expertise; 2) adequate service; 3) facility maintenance; 4) balance between customers and shareholders; 5) financial stability; 6) company’s ability to obtain financing; 7) business reputation; and 8) relationship with customers.¹

The Petitioner represents that the Project will be privately financed and will not be selling

¹ *Petition of ER Nava Storage, LLC, pursuant to 30 V.S.A. 30 V.S.A. §§ 231 and 248(j), requesting a certificate of public good to construct, own, and operate a 5 MW battery storage system in Royalton, Vermont, Case No. 21-2114-PET, Order of 1/7/22.*

or delivering electricity directly to retail customers in Vermont. Following Commission precedent regarding merchant developers that are not directly servicing retail customers, the Department does not apply the criteria relating to “adequate service,” “balance between customers and shareholders,” and “relationship with customers” here. The Department concludes that Petitioner satisfies the remaining five criteria under the § 231 review due to the financial wherewithal, reputation, and technical experience of the Petitioner’s parent company, Encore Energy.

II. Request for *de minimis* Regulation

The Petitioner requests *de minimis* regulation under 30 V.S.A. §§ 107² 108³ and 109.⁴ These statutory criteria are aimed at traditional utilities. Petitioner is a merchant developer without retail customers and would operate at a smaller scale. As such, the Department has no objection to Petitioner’s request for *de minimis* review of financial and property concerns otherwise subject to 30 V.S.A. §§ 107, 108, and 109.

III. Request for a 30 V.S.A. § 248 CPG

30 V.S.A. § 248(j) provides for simplified and expedited review of projects of “limited size and scope”⁵ provided “the petition does not raise a significant issue with respect to the substantive criteria⁶ and the public interest is satisfied by the procedures authorized by this subsection”⁷ of 30 V.S.A. § 248. Before granting a CPG, the Commission must find that the (a), the Project promotes, the general good of the State⁸, “is required to meet the need for present and future demand for service that could not otherwise be provided in a more cost-effective

² Acquisition of control of one utility company by another.

³ The issuance of bonds or other securities.

⁴ Sales and leases; hearings.

⁵ 30 V.S.A. § 248(j)(1)(B).

⁶ 30 V.S.A. § 248(j)(1)(C).

⁷ 30 V.S.A. § 248(j)(1)(D).

⁸ 30 V.S.A. § 248(a).

manner”⁹, and will result in an economic benefit to the State and its residents.¹⁰

The Department has reviewed the petition, prefiled testimony, and accompanying exhibits, and still has concerns that the Project will comply with the requisite § 248 criteria. In its petition, MRES states that “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.”¹¹ This rubric, where there is not an Energy Storage Service Agreement (“ESSA”) with the host utility (in this case Green Mountain Power), raises the possibility of the system being operated in a manner that creates value in the regional wholesale marketplace, but creates cost for Vermont ratepayers. The Petition does not have sufficient information for the Department to evaluate its economic impact.

Based on the foregoing, the Department is not prepared to recommend expedited process under § 248(j) at this time. Additional information on the expected operating parameters of the facility is required to better understand its economic impact to Vermont under criterion 30 V.S.A. § 248(b)(4), and whether the Petition raises significant issues under this criterion (and directly related, § 248(b)(7)). The Department is satisfied that the Project does not raise significant issues with other §248 criteria. To evaluate the impacts of the Project on Vermont ratepayers, the Department has informally asked the following of the Petitioner:

1. Please confirm that the Project will operate solely as a front-of-the-meter (FTM) settlement-only resource in regional markets, that it will not impact Vermont’s transmission peak, and that it will not add system peak issues for GMP.
2. Would the resource be participating in the ISO-NE forward capacity market? If so,

⁹ 30 V.S.A. § 248(b)(2).

¹⁰ 30 V.S.A. § 248(b)(4).

¹¹ *Petition*, at 2. Petitioner goes on to say that it is in conversation with GMP regarding an Energy Storage Services Agreement. However, the Department has not received any indication that this is a likely outcome.

- would the charging and discharging of the resource impact GMP's capacity supply obligation?
3. Will the Project charge at wholesale energy rates? If not, please describe the retail rate tariffs at which the Project will take service.
 4. Will the Project be operated independently from the adjacent solar facility? If not, then please describe how the two facilities will be operated.
 5. Will the project accept conditions to the CPG that ensure that it does not operate in a manner that adversely affects GMP ratepayers through increased capacity or transmission charges?
 6. Is an ESSA with GMP still a possibility, as stated in the Petition? If so, please provide any updates to those conversations and a copy of the ESSA.

This inquiry and discussion with the Petitioner is ongoing. To allow sufficient time for MRES to respond to the Department's inquiry, and for the Department to assess its response, the Department respectfully requests a second comment deadline of August 12, 2025. By the second comment deadline, the Department will address the specific economic concerns identified above and whether the Project may be appropriately reviewed under § 248(j) or require additional process.

IV. Conclusion

The Department finds no issues with the Petitioner's application under § 231 and the Department finds that the Petition would qualify for *de minimis* regulation under §§ 107, 108, 109. The Department has further questions regarding §248(b)(4), that may be able to be resolved after informal inquiry. Alternatively, an ESSA between the Petitioner and GMP would obviate the Department's concerns. Based on the foregoing, the Department respectfully requests the opportunity to provide additional Comments by August 12, 2025. The Department intends to

submit a 30 V.S.A. §202(f) determination letter once these questions have been resolved. The Department has asked the Petitioner whether it consents to this narrow substantive extension and understands that it does.

DATED at Montpelier, Vermont this 10th day of July 2025.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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