

STATE OF VERMONT
ENVIRONMENTAL COURT

FILED

JUL 24 2008

VERMONT
ENVIRONMENTAL COURT

Vermont Natural Resources Board)
Land Use Panel,)
Petitioner,)
v.)
Vermont Gas Systems, Inc.,)
Respondent.)

Docket # 156-7-08 Vtec

ORDER

The Assurance of Discontinuance signed by the Respondent on July 14, 2008, and filed with the Environmental Court on July 18, 2008, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007(c).

Dated this 24th day of July 2008.

A handwritten signature in cursive script that reads "Merideth Wright".

Merideth Wright,
Environmental Judge

STATE OF VERMONT

ENVIRONMENTAL COURT
DOCKET NO.

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner,

v.

VERMONT GAS SYSTEMS, INC.,
Respondent

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Vermont Gas Systems, Inc. (Respondent) hereby enter into this Assurance of Discontinuance (Assurance or AOD), and stipulate and agree as follows:

I. STATEMENT OF FACTS

1. Vermont Gas Systems, Inc. (VGS) owns and operates a natural gas distribution system in the Champlain Valley area of Vermont.
2. Some of the distribution lines operated by VGS are subject to Act 250 jurisdiction.
3. In years past, VGS has installed many gas distribution lines without seeking Act 250 review or obtaining Land Use Permits for those lines. Most of these lines were below the jurisdictional threshold of Act 250 Rule 70; some may have triggered Act 250 jurisdiction and therefore would require Land Use Permits.
4. VGS has prepared a map of all of its distribution lines in operation as of January 1, 2008. This map is attached to this Assurance as Appendix A.

II. AGREEMENT

Based on the foregoing Statements of Facts, the parties agree as follows:

A. In order to resolve questions concerning jurisdiction over existing VGS distribution lines, all of the lines on Appendix A shall be deemed, as of the date this Assurance is signed by the Environmental Court, to be in compliance with 10 V.S.A. Ch. 151 (Act 250), whether or not they are presently subject to Act 250 jurisdiction and whether or not they are presently covered by Act 250 Land Use Permits. No permits

shall be required for any gas distribution lines which appear on Appendix A, other than those which have already been issued.

B. As soon as practicable in advance of any such construction, VGS shall notify the appropriate District Commission Coordinator of future construction of gas distribution lines or extensions of distribution lines that

- (1) trigger Act 250 jurisdiction in and of themselves;
- (2) are direct extensions of existing distribution lines that already go through lands subject to Act 250 jurisdiction; or
- (3) will be going through lands that are already subject to Act 250 jurisdiction.

C. The notification requirement set forth in Paragraph B shall not be triggered if the distribution line or line extension is being constructed in conformance with a previously-issued Act 250 land use permit.

D. Act 250 permits shall be required for any new gas distribution lines or line extensions which trigger Act 250 jurisdiction under Act 250 Rule 70, or which constitute material changes to either (i) existing permitted gas distribution lines, or (ii) lands which themselves are subject to Act 250 jurisdiction and permits.

E. (1) On an annual basis in January or February, VGS shall present to the State of Vermont Division for Historic Preservation (DHP) its most current plans for service area expansion, so that DHP can inform VGS whether its expansion may enter archeologically sensitive areas. This process will provide VGS an opportunity to determine the potential for archeological impact, and to modify its line design to the extent needed in advance of construction. Review by DHP shall occur within thirty (30) days of this presentation. Absent a report by DHP that proposed distribution line construction of which it has been informed implicates archeologically sensitive areas, VGS may conclude that the construction does not implicate archeologically sensitive areas

(2) If a distribution line project arises after this annual meeting, VGS shall notify DHP of its location as soon as practicable before construction. Review by DHP shall occur within thirty (30) days of this notification. Absent a report by DHP that proposed distribution line construction of which it has been informed implicates archeologically sensitive areas, VGS may conclude that the construction does not implicate archeologically sensitive areas.

(3) When VGS has been requested to provide service, through a customer-initiated contact which indicates that service from VGS is immediately

required and the installation of the distribution line involves a corridor of less than five hundred (500) feet in length, VGS shall immediately notify DHP of its location before construction commences. Review by DHP shall occur within four (4) days of this notification. Absent a report by DHP that proposed distribution line construction of which it has been informed implicates archeologically sensitive areas, VGS may conclude that the construction does not implicate archeologically sensitive areas.

F. VGS shall contribute the amount of Fifteen Thousand (\$15,000.00) Dollars to the Champlain Valley Office of Economic Opportunity, Inc. for distribution to low income Vermonters in the counties served by VGS to assist low-income customers with their natural gas bills.

G. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.

H. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondent.

I. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.

J. Pursuant to 10 V.S.A. § 8007(d), VGS shall not be liable for civil or criminal penalties with respect to the specific facts described herein and about which the Land Use Panel has notice on the date the Court signs this Assurance, provided that VGS fully complies with the agreements set forth above.

K. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.

L. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.

M. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

III. SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. I have the authority to sign this Assurance of Discontinuance on behalf of Vermont Gas Systems, Inc.

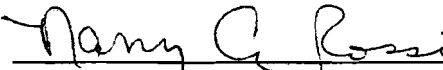
Dated at South Burlington, Vermont, this 14 day of July, 2008.


for Vermont Gas Systems, Inc.

STATE OF VERMONT
COUNTY OF CHITTENDEN, SS.

BE IT REMEMBERED that on the 14 day of July, 2008, personally appeared Eileen Simollader signer of the foregoing instrument who is known to me or who satisfactorily established his identity to me, and acknowledged the signing of this Assurance of Discontinuance to be the free act and deed of Vermont Gas Systems, Inc.

Before me,

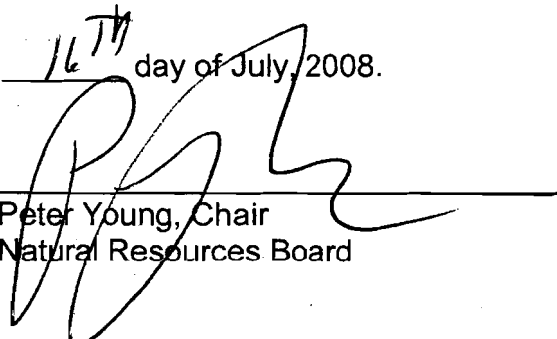

Notary Public

My Commission Expires: _____
Nancy A. Rossi

*** My Commission Expires
February 10, 2011

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated at Montpelier, Vermont this 16TH day of July, 2008.


Peter Young, Chair
Natural Resources Board