ORDER GRANTING INTERESTED PARTY STATUS TO NORTHWESTERN MEDICAL CENTER

The applicant, ACTD LLC (ACTD) proposes to develop an ambulatory surgical center in Colchester, Vermont, known as the Green Mountain Surgery Center, and on July 2, 2015, applied for a Certificate of Need (CON). On July 31, 2015, Northwestern Medical Center (NMC), filed a motion with the Green Mountain Care Board requesting interested party status in this CON proceeding. Having reviewed the motion, for the reasons below, NMC’s request for interested party status is granted.

A person or entity requesting interested party status must successfully demonstrate that it “will be substantially and directly affected by the new health care project under review.” 18 V.S.A. § 9440(c)(7); GMCB Rule (Rule) 4.000, § 4.406. “A substantial and direct impact shall include, but not be limited to, a direct financial or other business interest in the proposed project. A general interest in a project as a function of being in the subject service area or otherwise being generally concerned with the health care system shall not be sufficient.” Rule 4.000, § 4.406(3). A successful applicant also must provide a “detailed statement [which] illustrate[s] how relevant Certificate of Need criteria, including applicable health care policy goals, relate to the request to intervene.” Rule 4.000, § 4.406(2).

NMC’s financial and business interests in this matter are well-supported by the motion to intervene. GMSC would be located 20 miles away from NMC. NMC Motion to Intervene (July 31, 2015) at 1. NMC reports an expectation that a compelling segment of its current business would be affected by GMSC if GMSC’s business projections are accurate. Id. at 2. NMC claims that this shift in demand would have a “detrimental” effect on NMC’s finances. Id. NMC also
identifies a significant ongoing investment and business plan concerning its operating room utilization that could be disrupted by the proposed project. *Id.* NMC’s request identifies substantial and direct financial and business operation impacts sufficient to justify interested party status under 18 V.S.A. § 9440(c)(7) and Rule 4.000, § 4.406(3).

NMC also describes its interests and relevance as an interested party in connection with the CON criteria. Rule 4.000, § 4.406(2). NMC expresses tangible concerns related to the cost of care, 18 V.S.A. § 9437(3), to an undue adverse impact on existing services, 18 V.S.A. § 9437(5), and to the duplication of services, 18 V.S.A. § 9431. NMC Motion to Intervene at 2, 3. NMC’s motion inherently raises issues of necessity, as identified by a party with a proximate interest in these proceedings. Accordingly, NMC has demonstrated how relevant CON criteria relate to the request to intervene.

Of note, the Board recognizes that NMC is a member organization of the Vermont Association of Hospitals and Health Systems (VAHHS). Via separate order, VAHHS has also been granted interested party status to this proceeding. While NMC and VAHHS share some common interests, NMC’s proximate and immediate interest in the proposed project differs from the significant interests VAHHS represents on behalf of its sixteen-hospital membership. VAHHS Motion to Intervene (July 31, 2015) at 1.

Based on the above, the Board grants NMC’s motion for interested party status in this docket. NMC shall be copied by all parties on all materials entered into the record and materials submitted by NMC shall be admitted into record and copied to all parties. Finally, if NMC intends to submit any proposed questions for the Board to consider posing to the applicant, it must do so on or before September 4, 2015.

Dated: August 13, 2015
Montpelier, Vermont

GREEN MOUNTAIN CARE BOARD

By:  /s/ Alfred Gobeille
Alfred Gobeille, Chair