

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Application of Southwestern Vermont)
Medical Center, Replacement of) GMCB-017-15con
Boilers and Boiler Plant)
_____)

STATEMENT OF DECISION AND ORDER

Introduction

Southwestern Vermont Medical Center (SVMC, or the applicant) is a hospital located in Bennington, Vermont, serving a primarily rural population in Bennington and Windham counties, as well as neighboring counties in Massachusetts and New York. SVMC seeks a certificate of need (CON) from the Green Mountain Care Board to construct a 3,600 square foot prefabricated metal boiler plant and to purchase and install three new boilers to replace SVMC's existing boilers. The total cost of the project is \$3,750,000.

For the reasons outlined below, we approve the application.

Procedural Background

On October 23, 2015, SVMC filed its original CON application with the Green Mountain Care Board to replace its boiler plant and three existing boilers. On December 10, 2015, the Board granted amicus curiae status to both the Department of Public Service (DPS) and Renewable Energy Vermont (REV). On December 15, 2015 SVMC requested that the application be placed on hold so that it could engage DPS and REV in discussions to address concerns regarding the proposed project. On June 27, 2016, SVMC submitted a new CON application. The Board received no further requests for interested party or amicus status and no competing applications.

The Board requested additional information from the applicant on July 29 and August 24, 2016. The applicant responded to the requests on August 8 and September 2, 2016. The application was closed on September 26, 2016. The Board held a public hearing on October 27, 2016. Noel Hudson, Esq. served as hearing officer by designation of the Board chair. James Trimarchi, SVMC Director of Planning and Stephen Majetich, CFO and Vice President of Finance, testified on the applicant's behalf. Both DPS and REV testified at the hearing.

Public comment was accepted at the hearing and in writing through November 7, 2016. The Board received written comments from REV on November 1, 2016.

Findings of Fact

1. The SVMC campus is currently heated by three boilers. These boilers are over 35 years old, exceed their useful life of 25 years, and have high maintenance costs. In addition, the

boilers are inefficient and burn #6 oil. This fuel is outdated and increasingly difficult to obtain, and the emissions attendant to its use result in the assessment of Hazardous Air Containment Fees. Application (App.) at 11, 19, and Appendix 6.

2. SVMC seeks to construct a 3,600 square foot prefabricated metal building to house three replacement boilers. The project also includes installation of a compressed natural gas decompression station, the installation of a 20,000 gallon above-ground #2 oil fuel storage tank, and the installation of approximately 200 yards of steam piping to connect with the existing steam pipes traveling throughout the hospital campus. App. at 12-13. SVMC uses steam to provide heat and hot water in campus buildings, and for sterilizing surgical equipment. App. at 23.

3. SVMC proposes to purchase and install two Mohican Model 2000 boilers and a Superior Boiler Works, Model N65 Hurst boiler. The proposed fuel source for the new boilers is natural gas, with #2 oil as back-up. The Hurst boiler can be converted for use with biomass fuel in the future. App. at 12. SVMC estimates the new boilers will reduce operating costs in year 1 by \$293,454, in year 2 by \$215,408 in year 2, and estimates future savings of over \$200,000 annually. App. at 11, 18.

4. SVMC proposes to use natural gas as its main fuel because it is readily available, burns cleanly, requires relatively low operational oversight and staffing, and because it is a relatively economical fuel alternative. App. at 12, 19-20. SVMC states that the ability of the Hurst boiler to be converted to biomass fuel allows for future flexibility should biomass become economically advantageous. Hearing Transcript (TR) at 11-12.

5. SVMC based its decision to construct a new boiler plant using a prefabricated metal building, rather than renovating the existing boiler plant, on its lower costs, SVMC's ability to use the current boiler plant during construction and the new plant during decommissioning of the existing one, and because the more remote setting of the new plant reduces fire risk to patient care areas. App. at 21. Additionally, the proposed plant will be large enough to accommodate modification of the Hurst boiler to burn biomass fuel and sited to facilitate biomass fuel delivery. App. at 20.

6. Hearing testimony by DPS and REV confirmed that SVMC's proposal to invest in a boiler that allowed for possible future use of biomass fuel resulted from a collaborative engagement between the three entities prior to the submission of the present application. TR at 20-23, 46-47.

7. The Board's consulting architect and mechanical, electrical, plumbing, and fire protection consultant reviewed the project's costs and methods of construction, and found them to be reasonable and within industry standards. The project complies with the standards of the Guidelines for Design and Construction of Health Care Facilities, 2014 edition. App. at 17-21.

8. The project also includes the removal of two 20,000-gallon underground #6 fuel storage tanks. SVMC does not anticipate that environment remediation is necessary. However, if

remediation is needed, SVMC will work with the Department of Environmental Conservation. App. at 11-12, Responses to Questions (Responses), Aug. 8, 2016 at 1.

9. The project will be financed from operating revenue; as such no debt will be incurred to implement this project. SVMC states that it will not increase charges, rates or net patient revenue as a result of the project. *Id.* at 1. The cost of the project is included in the capital budgets for FYs 2015, 2016 and 2017 that were submitted to the Board through the hospital budget process. App. at 15. There are no staff increases or decreases expected with the implementation of the project. Responses, Aug. 8, 2016 at 1.

Standard of Review

Vermont's CON process is governed by 18 V.S.A. §§ 9431-9446 and Green Mountain Care Board Rule 4.000 (Certificate of Need). The applicant bears the burden to demonstrate that each of the criterion set forth in 18 V.S.A. § 9437 is met. Rule 4.000, § 4.302(3). We review each criterion below.

Conclusions of Law

As an initial observation, the need for the requested project is easily demonstrated in SVMC's application. Hospitals cannot offer an adequate quality of care without heat, hot water, and the ability to sterilize equipment. This bedrock, critical infrastructure must be periodically renovated, repaired or replaced. Accordingly, the statutory criteria in 18 V.S.A. § 9437 governing the approval of CONs weigh heavily in favor of approval of this application.

Pursuant to 18 V.S.A. § 9437(1), we conclude that the application is consistent with Vermont's Health Resource Allocation Plan (HRAP). The HRAP, last published in 2009, identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. There are few hospital-specific standards in the HRAP that apply to the present application. Although the applicant arguably proposes a major facility upgrade, the upgrade is necessary to maintain all of its operations and services in their current dimensions and the upgrade is not aimed at increasing capacity and utilization. *See* CON Standard 3.2 (requiring population-based analysis to support need that is inapplicable to the present application). The only hospital-specific requirement in the HRAP that applies here is CON Standard 3.4, which requires that applicants subject to the Board's statutory hospital budget review process include the expenses of the proposed project in their budget submissions. SVMC met this requirement by including the proposed expenses in its FY 2015, 2016 and 2017 capital budgets. Findings of Fact (Findings) ¶ 9.

Further, SVMC has demonstrated that its application is consistent with CON Standards 1.9-1.12. The Board's consultants opined that project costs and methods of construction are necessary, reasonable, and compliant with the AIA Guidelines for Design and Construction of Health Care Facilities. Findings ¶¶ 6, 7. SVMC is working with Efficiency Vermont in implementing the project, and incorporated extensive input from DPS and REV regarding fuel efficiency and the possible future incorporation biomass as a fuel source. Finding ¶ 6. The new construction is an appropriate alternative to renovating the existing boiler plant, as its more

remote site will allow use of a cleaner, more efficient fuel while reducing the fire risk to the hospital. Finding ¶ 5. The plant's construction will not disable the existing plant, ensuring a continuous supply of essential steam heat to the SVMC hospital campus. *Id.* We accordingly conclude that the proposed project is consistent with the HRAP, and that the applicant has satisfied the first statutory criterion.

Under the second criterion, SVMC must show that the cost of the project is reasonable, that it can sustain any financial burden likely to result from the project, that costs of care will not unduly increase, and that less expensive alternatives are not feasible or appropriate. 18 V.S.A. § 9437(2). We conclude that SVMC has met this criterion. SVMC will finance the project from operating revenue, and no debt will be incurred for its implementation. Finding ¶ 9. The cost of the project is included in the capital budgets submitted to the Board through the hospital budget process. *Id.* There are no projected staff increases associated with the project beyond necessary construction personnel. The project is expected to reduce hospital operating expenditures by more than \$200,000 per year. Finding ¶ 3. Under this set of facts, we find no less expensive alternatives are feasible or appropriate.

Under the third criterion, an applicant must show that there is a need for the project that is appropriate for the applicant to provide. 18 V.S.A. § 9437(3). SVMC has met this criterion. The three boilers at SVMC are over 35 years old, ten years beyond their useful life of 25 years. Finding ¶ 1. SVMC must replace the boilers and boiler plant to avoid a critical failure of its entire operation. We therefore conclude that there is ample need for the proposed project. Moreover, this demonstrated need is sufficiently all-encompassing that the project satisfies the criteria in 18 V.S.A. § 9437(4) and (5), even if that compliance is best stated in the negative: SVMC could not maintain or improve quality of care or access to care, or continue providing existing services, without the proposed investment in its heating infrastructure. Similarly, we conclude that the ability of SVMC to maintain its operations serving the population of southern Vermont while reducing emissions serves the public good in satisfaction of 18 V.S.A. § 9437(6).

Finally, SVMC has met its burden to satisfy the two remaining criteria to the limited extent they are applicable. The project will maintain existing services for the served population of primarily rural Vermonters without increasing transportation difficulties. 18 V.S.A. § 9437(7) (applicant must consider affordable, accessible transportation services). The application does not propose the purchase of health information technology, and therefore 18 V.S.A. § 9437(8) is not relevant to this decision.

Conclusion

Based on the above, we conclude that the applicant has met each applicable statutory criterion, and issue a certificate of need on this date.

Order

Pursuant to 18 V.S.A. § 9440(d), the Green Mountain Care Board approves the application of Southwestern Vermont Medical Center, and a certificate of need shall issue, subject to the conditions set forth in that document.

SO ORDERED.

Dated: November 28, 2016 at Montpelier, Vermont

s/ Alfred Gobeille)
)
s/ Cornelius Hogan) GREEN MOUNTAIN
) CARE BOARD
s/ Jessica Holmes) OF VERMONT
)
s/ Betty Rambur)
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Filed: November 28, 2016

Attest: Marisa Melamed
Green Mountain Care Board, Health Policy Analyst