UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

GROCERY MANUFACTURERS ASSOCIATION, *et al.*,	)	
Plaintiffs,	)	
v.	)	
	)	Case No. 5:14-cv-00117-CR
WILLIAM H. SORRELL, in his official capacity as the Attorney General of Vermont, *et al.*,	)	
Defendants,	)	
and	)	
VERMONT PUBLIC INTEREST RESEARCH GROUP and CENTER FOR FOOD SAFETY,	)	
Proposed Intervenor-Defendants.	)	

MEMORANDUM IN SUPPORT OF VERMONT PUBLIC INTEREST RESEARCH GROUP AND CENTER FOR FOOD SAFETY'S MOTION TO INTERVENE AS DEFENDANTS

Securing labels on genetically engineered (GE) foods is central to the missions of the Vermont Public Interest Research Group and the Center for Food Safety ("Applicants"). For more than fifteen years, the Center for Food Safety (CFS) has been the national leader in advocating for the labeling of genetically engineered foods. Here in Vermont, the Vermont Public Interest Research Group (VPIRG) was similarly integral to the successful passage of Act 120. Plaintiffs' lawsuit now threatens to upend Act 120, negating Applicants' extensive efforts and severely injuring their core organizational missions as well as the personal interests of thousands of their members. Accordingly, in order to protect their unique interests, and for the benefit of the Court and the public, Applicants respectfully submit this motion to intervene.

FACTUAL BACKGROUND

All across the country, more and more Americans are demanding factual information about whether their food is genetically engineered—information that citizens in 64 other countries already have. Polls show that over 90% of Americans support labeling genetically engineered foods.[1] In 2013-2014 alone, there were 70 GE food labeling bills introduced in 30 different states. In 2013, two states, Connecticut and Maine, passed GE food labeling laws, albeit with their effective dates contingent on other states' passing similar legislation.[2] Finally, on May 8, 2014, Vermont became the first state to require labels on GE foods. Act 120's passage marked the culmination of many years of efforts for Applicant nonprofits CFS and VPIRG. Act 120 is an important law for Vermont, and an important step in having GE food labeling for all Americans.

Applicants and in particular VPIRG were critical to the successful effort to achieve GE labeling in Vermont. At the signing ceremony for the law, Governor Peter Shumlin described VPIRG Executive Director Paul Burns as a "tireless advocate" and gave a "huge shout out" to the VPIRG canvassers who had brought the GE labeling issue door-to-door the previous summer. Similarly, Representative Carolyn Partridge, the Chair of the House Committee on Agriculture and Forest Products, thanked VPIRG's counsel—the Environmental and Natural Resources Law Clinic (ENRLC) at Vermont Law School—for their "extensive background work" related to the legislation.

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[1] *See, e.g.*, Allison Kopicki, *Strong Support for Labeling Modified Foods*, N.Y. Times, July 27, 2013, *available at* http://www.nytimes.com/2013/07/28/science/strong-support-for-labeling-modified-foods.html?_r=1&.

[2] An Act to Protect Maine Food Consumers' Right to Know about Genetically Engineered Food, 2014 Me. Legis. Serv. Ch. 436 (West) (to be codified at Me. Rev. Stat. Ann. tit. 22, §§ 2591-2596); Conn. Gen. Stat. Ann. § 21a-92c (West 2013).

Applicants' intense engagement on this issue began in the spring of 2012 when they advocated for Act 120's predecessor, H.722, including providing and coordinating testimony for the House Committee on Agriculture and Forest Products. VPIRG, represented by ENRLC, continued its efforts the next legislative session, providing legal and policy expertise for the bill as it worked its way through the committee process. CFS's legal staff coordinated closely with ENRLC from this time until the passage of Act 120 in providing legal input and suggestions for the bill. In February 2013, both Falko Schilling of VPIRG and the ENRLC testified in support of the bill. From the ENRLC, Associate Director Laura Murphy and two clinicians gave extensive testimony regarding the First Amendment, provided a 71-page memo on GE labeling and constitutional law, and provided several binders of factual materials in support of H.112's labeling requirements, including scientific studies and polling reports. Later that spring, Ms. Murphy testified again before the House Committee on Judiciary regarding the constitutionality of the bill.

During this time, VPIRG and its coalition of Vermont partners were instrumental in providing resources to the public and grassroots advocacy for the bill. Among other things, the coalition maintained a website with fact sheets, studies, and action alerts, and encouraged Vermonters to raise their voices in support of the bill.[3] VPIRG alone sent approximately 31 GE labeling messages to its members during the 2013 legislative session. VPIRG's efforts continued into the summer when it launched its largest canvassing effort ever. More than 60 canvassers knocked on over 80,000 Vermonters' doors to eventually deliver more than 30,000 postcards to Vermont Senators and Representatives.

[3] Vermont Right to Know GMOs, http://www.vtrighttoknowgmos.org/.

In the 2014 legislative session, VPIRG continued its efforts through testimony and advocacy. Mr. Schilling and Ms. Murphy testified on legal and policy issues before the Senate Committee on Agriculture and provided updated factual materials to the Committee, including recently released scientific studies. When the bill was in the Senate Committee on Judiciary, Ms. Murphy and a student clinician provided additional legal testimony. ENRLC and CFS legal staff also provided further legal memos to the Judiciary Committee regarding the scope of Act 120. The Senate passed the bill 28 to 2.

As the legislative work continued through spring 2014, VPIRG, CFS, and the groups' partners and members also continued their essential grassroots work. VPIRG sent approximately 29 notices or action alerts, and more than 30,000 VPIRG members conveyed messages and postcards to their legislators during the spring of 2014 asking for labels on GE foods. One of the most powerful results of the grassroots campaign was the public hearing on May 6th that filled Vermont's House chamber with hundreds of people. Among those who testified were Mr. Schilling and numerous VPIRG members. The bill then went back to the House for a final vote where it passed 114 to 30, having gained more support after the previous year's 99 to 42 vote.

Rather than comply with Act 120's reasonable requirements and label their products, as they do in many other countries, Plaintiffs instead brought this lawsuit.

ARGUMENT

I. APPLICANTS ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT.

Rule 24(a) provides a four-part standard for intervention of right:

> On [1] timely motion, the court must permit anyone to intervene who . . . claims [2] an interest relating to the property or transaction that is the subject of the action, and is so situated that [3] disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, [4] unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a). Courts should examine and apply these criteria "in the context of the statutory scheme under which the underlying litigation is being pursued." *United States v. Pitney Bowes, Inc.*, 25 F.3d 66, 72 (2d Cir. 1994). Rule 24 should be broadly construed, in favor of proposed intervenors. *See, e.g.*, *Wilderness Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (en banc); *Turn Key Gaming, Inc. v. Oglala Sioux Tribe*, 164 F.3d 1080, 1081 (8th Cir. 1999); *Stupak-Thrall v. Glickman*, 226 F.3d 467, 472 (6th Cir. 2000).

A. Applicants' Motion Is Timely.

Applicants' motion is timely because this case is still in its initial stage. Plaintiffs filed their complaint only last month, and have recently stipulated with the State to extend the State's time to respond until August 8, 2014. Defs.' Stipulated Mot. for an Extension of Time (July 7, 2014). No substantive brief has been filed, and no briefing schedule or hearing date has been set. Applicants have also filed a Proposed Answer concurrently with this Motion to further eliminate any potential delay, prejudice, or inefficiency. Applicants thus meet the first criterion. *See, e.g.*, *LaRouche v. Fed. Bureau of Investigation*, 677 F.2d 256, 257-58 (2d Cir. 1982) (holding intervention motion timely even though filed two years after relevant procedural court order in case because no prejudice or undue delay).

B. Applicants Have Strong Interests in the Action that May Be Impaired by Its Outcome.

The second and third criteria are met because Applicants have strong interests in this case that may be impaired by an adverse outcome. *See* Fed. R. Civ. P. 24, Advisory Committee Notes ("If an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene.").

First, each Applicant organization's core mission includes championing transparency in food labeling, and specifically genetically engineered food labeling. Applicant CFS is the

nation's leading nonprofit working on genetically engineered organisms. For more than a decade and a half, CFS has worked on the GE food labeling issue across the country. Kimbrell Decl. ¶¶ 4-17. CFS dedicates significant staff and economic resources to furthering transparency in the food system, and in particular to advocating, educating, and campaigning for GE labeling at the state level. *Id.* As in Vermont, CFS has and continues to work with dozens of states on GE labeling legislation. *Id.* ¶¶ 8-12. This case will significantly affect CFS's interests, as evinced by its extensive and longstanding GE food labeling program because Act 120 is the first such state law to be challenged. *Id.* ¶¶ 18-21; *see, e.g.*, *Herdman v. Town of Angelica*, 163 F.R.D. 180, 188 (W.D. N.Y. 1995) (noting standard met where the "'disposition of th[e] action may, as a practical matter, impair or impede'" applicants' interests) (citation omitted). Similarly, as described in detail above, VPIRG has been at the forefront of the GE labeling issue in Vermont for several years and has likewise dedicated substantial resources to this cause. Burns Decl. ¶¶ 2-6.

Second, Applicants were actively involved in the passage of Act 120, vigorously supporting its passage and expending significant economic, legal, policy, grassroots, and other staff resources since 2012. *See supra* pp. 2-4; Burns Decl. ¶¶ 4-5; Kimbrell Decl. ¶ 12. Where, as here, public interest groups "took an active role" in the crafting and passage of a law, they have a "clear interest in the continuing constitutional viability of that law." *See Herdman*, 163 F.R.D. at 187; *see also, e.g.*, *Commack Self-Service Kosher Meats, Inc. v. Rubin*, 170 F.R.D. 93, 102 (E.D.N.Y. 1996) (holding charitable organizations had sufficient interest to intervene as of right "in actions involving legislation or regulations previously supported by the organization"); *Green Mountain Chrysler Plymouth Dodge Jeep v. Torti*, No. 2:05-cv-302, at 9-10 (D. Vt. May

3, 2006) (collecting cases) (Attachment 6). If the Court enjoins or sets aside any part of Act 120, Applicants' considerable efforts would be lost.

Third, in addition to their core organizational interests, Applicants' members have strong interests supporting intervention. VPIRG is the largest nonprofit consumer and environmental advocacy organization in Vermont, representing over 30,000 members and supporters. Burns Decl. ¶ 2. CFS has over half a million members nationwide, thousands of which reside in Vermont. Kimbrell Decl. ¶ 2. Applicants' members will be directly and personally impacted by the outcome of this case because they strongly support the labeling of genetically engineered food. Kimbrell Decl. ¶¶ 19-28; Allen Decl. ¶¶ 10-14; Burns Decl. ¶¶ 13-15; Weinstein Decl. ¶¶ 9-11. They need to know whether foods they eat and feed their families are genetically engineered for health, environmental, economic, and other reasons, and believe the absence of such labeling is misleading. *Id.* Some members, like CFS Declarant Will Allen, are also sustainable farmers that operate food businesses, which will be directly and indirectly economically impacted by the GE disclosure that Act 120 provides. Allen Decl. ¶¶ 15-22. Hence Applicants' members have significant, concrete, and protectable interests in Act 120's enactment that warrant intervention as of right, and any loss of Act 120's labeling requirements would significantly impair their interests.

C. Defendant Vermont May Not Adequately Represent Applicants' Interests.

If, as here, the above-criteria are met, the Court should grant intervention as of right "unless existing parties adequately represent" Applicants. Fed. R. Civ. P. 24(a)(2). As the Supreme Court has explained, an Applicant's burden is "minimal": namely, to show that the representation of its interests by existing parties "'may be'" inadequate. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972) (citation omitted); *see also, e.g.*, *United States v.*

Palermino, 238 F.R.D. 118, 121 (D. Conn. 2006) (citing and quoting *Trbovich*); *Green Mountain,* No. 2:05-cv-302, at 12 ("Intervention of right is granted if it is shown that representation *may* be inadequate") (emphasis in *Green Mountain*) (citing *Trbovich*); *Brennan v. N.Y.C. Bd. of Educ.*, 260 F.3d 123,132-33 (2d Cir. 2001) (holding that the "test" is whether "adequacy of representation was assured"). There are several reasons why Vermont's representation of Applicants' interests may be inadequate, any one of which is sufficient to satisfy this factor. *See, e.g.*, *U.S. Postal Serv. v. Brennan*, 579 F.2d 188, 191 (2d Cir. 1978) ("Determination of the adequacy of existing representation necessarily involves an assessment of factors which are within the discretion of the district court."). Thus, intervention as of right is warranted.

First, Vermont has serious financial concerns regarding the cost of this litigation, an important factor that courts recognize in assessing whether the state's representation may be inadequate. *See, e.g.*, *Herdman*, 163 F.R.D. at 190 (explaining that where parties move to intervene on side of government entity defending validity of a law, courts should examine "(1) whether the government entity has demonstrated the motivation to litigate vigorously and to present all colorable contentions, and (2) *the capacity of that entity* to defend its own interests and those of the prospective intervenor") (emphasis added). For example, in *Herdman*, the court granted an environmental nonprofit group intervention as of right in an industry challenge to a town ordinance restricting new solid waste facilities, in part because of the town's financial limitations. 163 F.R.D. at 189, 190-91 & n.8. Similarly, earlier this year, Applicant CFS was granted intervention of right in a chemical industry lawsuit challenging the constitutionality of a county disclosure ordinance, requiring the disclosure of genetically engineered crop planting and associated pesticide spraying on the island of Kauai. *Syngenta Seeds, Inc. v. Cnty. of Kauai*, No.

Civ. 14-00014BMK, 2014 WL 1631830, at *8 (D. Haw. Apr. 23, 2014) (holding county's representation of intervenors' interests "may be inadequate" in part because of acknowledged "financial burden" to county of defending ordinance).

This capacity factor weighs even more in Applicants' favor here, because Vermont expressly recognized its fiscal concern by including in Act 120 a section creating a special fund to collect donations from outside sources in order to assist in its defense and implementation of the law. *See* Vt. Acts No. 120, § 4 (2014) (Attachment 7); Food Fight Fund Vermont, http://www.foodfightfundvt.org (explaining that Act 120 will be "challenged in court by food producers that do not want to disclose this information [produced with genetic engineering] to consumers" and that donations will help Vermont "mount a powerful defense against these lawsuits"). That Vermont codified such a provision in Act 120 matters, because intervention standards must be examined "in the context of the statutory scheme under which the underlying litigation is being pursued." *Pitney Bowes*, 25 F.3d at 72.

Vermont's concerns are significant, as state officials have testified that the litigation could cost between $1-5 million.[4] The concerns are also likely legitimate given that the Plaintiffs combined bring in over $100 million dollars annually[5] as juxtaposed against the State's serious budget constraints. It is wholly uncertain how much money will be voluntarily donated to the State to help with its defense (on June 9 there was approximately $15,000 in the fund). In

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[4] Taylor Dobbs, *Will Vermont Be Able to Defend its GMO Labeling Law on Donations Alone?*, VPR News, June 9, 2014, http://digital.vpr.net/post/will-vermont-be-able-defend-its-gmo-labeling-law-donations-alone.

[5] Grocery Manufacturers Association: http://www.guidestar.org/FinDocuments/2012/530/114/2012-530114930-09596f1a-9O.pdf; Snack Food Association: http://www.guidestar.org/FinDocuments/2012/340/421/2012-340421555-09c24000-9O.pdf; International Dairy Foods Association: http://www.guidestar.org/FinDocuments/2012/521/696/2012-521696342-0956ad09-9O.pdf; National Association of Manufacturers: http://www.guidestar.org/FinDocuments/2012/131/084/2012-131084330-09d298a3-9O.pdf.

contrast, attorneys for Applicants are *pro bono* representation from nonprofit CFS and ENRLC of Vermont Law School. *See Syngenta*, 2014 WL 1631830, at *8 ("Because the Intervenors do not have similar budgetary constraints this factor further tilts the balance toward allowing intervention.").

Second, while Applicants share the same ultimate objective as Vermont in upholding Act 120, Vermont may not adequately represent Applicants specific to this litigation, because unlike Applicants, the State has additional interests to consider during the course of this lawsuit. *See, e.g.*, *Turn Key Gaming*, 164 F.3d at 1082 (analyzing adequate representation issue and finding that outside factors would "necessarily affect Turn Key's litigation strategy, and perhaps give it reasons to agree to a settlement that would be to [intervenors'] disadvantage"). For instance, Applicants' interests do not include state budgetary considerations, which the State has a duty to take into account when making litigation decisions. *See Green Mountain*, No. 2:05-cv-302, at 13 (granting intervention because the "possibility exists that . . . interests may significantly differ when it comes to weighing . . . budgetary concerns in defending this lawsuit"). The significant financial disparity and uncertainty described above may make settlement more appealing for the State. *See N.Y.C. Bd. of Educ.*, 260 F.3d at 133 (incentive for settlement a factor). Similarly, the State may have human resources limitations that Applicants do not because, unlike the State, Applicants have relative control over the size of their dockets. In this regard, Applicants have narrower interests than the State in making litigation decisions.

At the same time, Applicants' interests are also broader than those of the Defendants: namely, Vermont does not represent the interests of hundreds of thousands of CFS members in other states who have an additional interest in the constitutionality of Act 120. For them, an adverse decision regarding Vermont's GE labeling law could severely harm their own ability to

pass such state legislation and secure GE labeling for their own families. Kimbrell Decl. ¶¶ 9-11, 19. Similarly, CFS also has thousands of Maine and Connecticut members, states that already have passed GE food labeling laws in 2013, but with so-called "trigger" clauses that require other states to also pass GE food labeling laws for their own laws to take effect. Kimbrell Decl. ¶ 21; *supra* n.2. Those CFS members also have unique interests in having Vermont's law upheld, in order for their own states' laws to take effect.

Accordingly, Applicants have met their "minimal" burden to show that the Defendants' representation of their interests "may be inadequate," *Trbovich*, 404 U.S. at 538 n.10, and the Court should grant intervention of right.

II. THE COURT SHOULD GRANT PERMISSIVE INTERVENTION.

This Court should grant permissive intervention because Applicants have strong, demonstrated expertise in and commitment to GE labeling in Vermont. Rule 24(b) allows "anyone" to intervene who, in addition to submitting a timely motion, has "a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b). Courts also consider "whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). Additional factors include "'the nature and extent of the intervenors' interests . . . and whether parties seeking intervention will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.'" *U.S. Postal Serv.*, 579 F.2d at 191-92 (citation omitted).

Courts have "broad discretion" to allow permissive intervention, *see SEC v. Everest Mgmt. Corp.*, 475 F.2d 1236, 1240 (2d Cir. 1972), and, like intervention as of right, permissive intervention should be granted liberally. *See Davis v. Smith*, 431 F. Supp. 1206, 1209 (S.D.N.Y.

1977) (citing 7C Charles A. Wright et al., *Federal Practice and Procedure* § 1913 (3d ed. 2007)). Further, the permissive intervention standard is less rigorous than that for intervention as of right, including, *inter alia*, that applicants need not show a direct interest in the subject matter of the challenged action. *See, e.g.*, *Brown v. City of Barre, Vermont*, No. 5:10-cv-81, 2010 WL 5141783, at *11 (D. Vt. Decl. 13, 2010) (granting permissive intervention "regardless of whether" one may intervene as of right); Wright et al., *supra*, § 1913 (noting "the scope of permissible discretion is broader when application is made under Rule 24(b) than if it is intervention as of right under Rule 24(a)").

A. Applicants Share Common Questions of Law and Fact with the Action.

First, Applicants undeniably satisfy the commonality requirement by seeking to address the legal and factual issues raised in Plaintiffs' Complaint, and to defend Act 120 against Plaintiffs' attacks. *See* Wright et al., *supra*, § 1911 ("If there is a common question of law or fact, the requirement of the rule has been satisfied."). Additionally, courts have recognized that if an applicant has a "public" interest, any "claim or defense" founded upon that interest *per se* shares a "question of law in common with the main proceeding." *United States v. Local 638, Enter. Ass'n of Steam*, 347 F. Supp. 164, 166 (S.D.N.Y. 1972) (allowing permissive intervention on side of government) (citation and internal quotation marks omitted); *see also SEC v. U.S. Realty & Imp. Co.,* 310 U.S. 434, 460 (1940) (noting public interest in "maintain[ing] state authority" and achieving result "in conformity to state policy"). Applicants' concerns are public ones, including concerns about the potential health risks of GE foods, consumer deception from the failure to label GE foods, and environmental impacts of GE crop production. Kimbrell Decl. ¶¶ 4-28; Burns Decl. ¶¶ 4-15; Allen Decl. ¶¶ 10-22; Weinstein Decl. ¶¶ 4-10. For the same reasons, Applicants have also shown that they meet another factor courts consider in permissive

intervention: whether the applicants will benefit by intervention. *See, e.g.*, *Ass'n of Conn. Lobbyists LLC v. Garfield,* 241 F.R.D. 100, 103 (D. Conn. 2007).

B. Permissive Intervention Will Not Result in Undue Delay or Prejudice.

Second, granting intervention will not result in delay or prejudice, which is the "principal consideration" under FRCP 24(b). *U.S. Postal Serv.*, 579 F.2d at 191. As discussed above, Applicants are timely, having filed their motion to intervene exceedingly early in the action. *See e.g.*, *Commack*, 170 F.R.D. at 106-07 (granting charitable organizations and consumers permissive intervention to defend constitutionality of New York Kosher Laws and finding it important that intervention came early in action). Applicants' motion is "prior to any significant substantive motions" by existing parties such that intervention will not delay ongoing proceedings, nor prejudice the rights of existing parties. *Schaghticoke Tribal Nation v. Norton*, No. 3:06cv81 (PCD), 2006 WL 1752384, at *8-9 (D. Conn. June 14, 2006) (granting permissive intervention).

Further, Applicants will use their resources to enrich the State's defense, which will ultimately expedite, rather than delay, the adjudication. *See Local 638*, 347 F. Supp. at 166-67 (finding no undue delay or prejudice to existing parties where movants would be able to "offer evidence and suggestions to the Court, which might be helpful in this difficult and delicate area"); *Conn. Lobbyists*, 241 F.R.D. at 103 (allowing nonprofit organizations to permissively intervene to defend constitutionality of state law, explaining that "the additional briefing and argument will only help to facilitate a speedy, fair and accurate resolution of the case").

Finally, Applicants will not unduly delay or prejudice adjudication because they intend to coordinate with the State to avoid unnecessary duplication. For instance, Applicants may present evidence where the State does not and focus on different areas of legal analysis than the State. In

turn, where the State has provided necessary evidence or analysis, Applicants will not duplicate those efforts. That Applicants and the State share the same ultimate objective is not an obstacle in this regard. *See, e.g.*, *New York v. Abraham*, 204 F.R.D. 62, 66-67 (S.D.N.Y. 2001) (granting permissive intervention and finding no undue delay where applicants agreed to limit their defense "to the issues framed by the existing parties"). Applicants will confine themselves to the issues raised in the Complaint and will minimize delay by drawing on their expertise to include arguments that add to, rather than duplicate, the State's defense.

C. Applicants Will Significantly Contribute to the Case.

Permissive intervention is also warranted because Applicants will "'significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.'" *U.S. Postal Serv.*, 579 F.2d at 191-92 (citation omitted); *see also Sackman v. Liggett Grp.*, 167 F.R.D. 6, 23 (E.D.N.Y. 1996) (granting permissive intervention). Courts have found that, where intervenors had particular expertise in the subject matter of the suit, their involvement was especially favored. *See Conn. Lobbyists*, 241 F.R.D. at 103 ("The movants also offer specialized expertise and substantial familiarity with the legal issues that are presented for review."); *Schaghticoke*, 2006 WL 1752384, at *9 ("The Movants' experience with these issues and full participation up to this point wi[ll] help to provide the Court with a full picture of the issues . . . ."); *United States v. Columbia Pictures Indus., Inc.*, 88 F.R.D. 186, 189 (S.D.N.Y. 1980) (granting Rule 24(b) intervention and noting "it is possible that the proposed intervenor's expertise and perspective could speed the adjudication of the action").

Here, as explained above, Applicants are recognized national experts on the subject of GE food labeling; they were intimately involved in Vermont's Act 120 and are deeply familiar

with its legislative record. Applicants' expertise in the legal, factual, and policy support for Act 120 ensures they will contribute to the full development of the issues and the adjudication of the legal questions presented. *See Commack*, 170 F.R.D. at 106 ("Considerations of fairness weigh in favor of the intervenors in light of their knowledge and strong interest in the subject matter of this action."). Here, Applicants' knowledge and strong interest in Act 120 warrant permissive intervention.

CONCLUSION

For these reasons, Applicants respectfully request that this Court grant this motion to intervene as of right, permissively, or both.

DATED: July 21, 2014

Respectfully submitted,

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