

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of Chelsea Solar LLC, pursuant]	
to 30 V.S.A. § 248, for a certificate of]	
public good authorizing the installation]	
and operation of the “Chelsea Solar]	Docket No. 17-5024-PET
Project,” a 2.0 MW solar electric]	
generation facility located off Willow]	
Road in Bennington, Vermont]	

TOWN OF BENNINGTON’S FIRST SET OF INFORMATION REQUESTS

The Town of Bennington (“Town”) by undersigned counsel, hereby serves the Town’s First Set of Information Requests upon Petitioner Chelsea Solar LLC (“Petitioner” or “Chelsea”) in accordance with Public Utility Commission Rule 2.214 and V.R.C.P. 33 and 34. Petitioner is requested to provide a copy of its answers in electronic format on or before the deadline designated in the Scheduling Order in this proceeding.

INSTRUCTIONS

1. Each Interrogatory shall be answered separately and fully in writing, under oath, unless it is objected to, in which event the objecting party shall state the reasons for the objection, and shall answer to the extent the Interrogatory is not objectionable.
2. The responses to the Interrogatories are to be signed by the person making them, and the objections signed by the attorney making them.
3. All grounds for an objection to a Request shall be stated with specificity. Any ground not stated in a timely objection is waived.
4. If you cannot answer a question after conducting reasonable investigation, you should so state and answer to the extent you can, stating what information you have, what information you cannot provide, and stating what efforts you have made to obtain the unknown information.
5. As to any document related to matters described herein which is not in your possession but which you know to exist, you are requested to identify such document and indicate to the best of your ability its present or last known custodian.

6. These requests require production of original Documents in the same form and order in which they existed prior to production. Documents are to be produced in the boxes, file folders, bindings or other containers in which the Documents are found. Titles, labels, or other description on the boxes, file folders, bindings, or other containers are to be left intact.
7. These requests shall require the production of all electronically maintained records, including e-mail and other data whether or not presently existing in hard copy.
8. As to Documents responsive to these Requests for which Appellant claims a privilege or which Appellant claims are not subject to production, please provide Neighbors with a list describing each such Document, and stating with respect to each Document:
 - a. The type of Document (e.g., letter, memorandum, computer disc, etc.);
 - b. The date of the Document, if known;
 - c. The title of the Document;
 - d. The author(s) of the Document;
 - e. The intended and actual recipients of the Document;
 - f. The general subject matter of the Document;
 - g. The factual and/or legal basis(es) for the claim of privilege or ground(s) for non-production asserted by Appellant with respect to the Document.
9. These requests are continuing in nature and require amendment or supplementation if You or Your attorneys later become aware of information and/or documents that indicate that the response previously given was inaccurate or incomplete.
10. All references to the singular include the plural, and all references to the plural include the singular. All reference to the masculine gender include the feminine, and vice versa.
11. The past tense shall be construed to include the present tense and vice versa to make the requests inclusive rather than exclusive.
12. You are requested to produce all documents that are in the possession, custody, or control of You or any of Your representatives, including persons consulted concerning any factual matters of opinion relating to any of the facts or issues involved in this matter. Such persons shall include attorneys with whom You consulted, unless You claim such documents are privileged or otherwise protected.
13. If any Interrogatory is answered by reference to business records, specify such records by description adequate to allow the discovering party to identify such documents with reasonable ease and, if known, specify which of any category of documents so described contain responsive information.

DEFINITIONS

1. "All" or "Any" shall mean "Any and All."

2. "All Documents" means every document known to you, whether an original, copy, or draft, and every such document which can be located or discovered by reasonably diligent efforts.
3. "You," "Your," "Chelsea" or "Petitioner" shall refer to the Applicant, Chelsea Solar, LLC, and any current or former parent, subsidiary, division, affiliate, predecessor entity or other associated corporation or entity thereof; and any current or former officers, directors, employees, agents, attorneys, accountants, representatives or any other person acting or purporting to act on behalf of any of the foregoing.
4. "Project," "proposed project," "site," "proposed site," and/or "project area" mean the installation and decommissioning of the Chelsea Solar Project, including all associated distribution upgrades, to be located in Bennington, Vermont, as described in Petitioner's filings, including all supplemental filings, in this docket.
5. "Communicate" or "Communication" shall refer to the transmittal of information (including facts, ideas, inquiries, or otherwise) in any manner whatsoever.
6. "Concerning" shall refer to describing, evidencing, relating to, pertaining to, constituting, or referring to in any manner whatsoever.
7. "Describe" or "Description" means to provide All facts known to You Relating to the subject referred to in the Interrogatory.
8. "Document" refers to and includes information contained in any medium, storage facility, device, compilation, or format whatsoever, from which such information may be obtained, reproduced, or translated into readable or usable form. A draft or non-identical copy is a separate document within the meaning of this term. This term includes, but is not limited to, information stored in hard copy or electronic format, including, but not limited to, Electronic Data, letters, correspondence, memoranda, electronic mail (e-mail), voicemail, telephone messages, word processing documents, spreadsheets, power point presentations, calendars, journals, diaries, data files, agreements, contracts, notices, announcements, business plans, financial statements, and any other information in written or electronic form.
9. "Electronic Data" means and refers to All information generated, recorded, preserved, or maintained by electronic, magnetic, optical, or telephonic means, including, but not limited to, information generated, recorded preserved or maintained on computer hard drives, floppy disks, computer Files, deleted computer Files, back-up computer Files, magnetic tapes, compact disks, optical disks, computer archives, computer memory, servers, emails, or any other form of computer readable storage media; and All copies, archives, and versions thereof.
10. "File" or "Files" shall mean and include Any collection or arrangement of Documents, maintained by individuals or business entities, whether personally or as part of the business activities of Any business entity whether in paper, electronic, digital, or optical form.
11. "Identify," when used with respect to a Document (as defined above), means to describe the Document by stating its exact name and title, its date and all serial or other identifying numbers thereon, each and every person who wrote, signed, initialed, dictated or otherwise participated in the creation of such Document, the general subject matter, the

addressee(s), the person(s) having possession, custody, or control of said Document, or any copy thereof, the location of any File or Files where the Document, or any copy thereof, is normally or presently kept, and Identify the custodian thereof.

12. "Identify," when used with respect to a Person (as defined below), means to state the full name, address, and telephone number of that Person. If the Person is an organization, state the full name of the entity, the entity's address(es), and the full names of the individuals employed by or representing said entity who have knowledge of or with whom communications have been had, pertaining to the subject matter of the request.

13. "Person" or "Persons" refers to any natural individual(s), governmental agency or department, governmental entity, or business entity, including a corporation or partnership, association(s), joint venture(s), co-venturer(s), or other entity, or any combination thereof, and All corporations, divisions, or entities affiliated with, owned, or controlled directly or indirectly by any such entities, as well as the directors, officers, employees, agents, attorneys, or other representatives thereof, or third parties retained or employed by any of the above.

14. "Relating to" means in whole or in part consisting, containing, concerning, embodying, identifying, stating, consisting of, pertaining to, referring to, dealing with, responding to, reflecting, supporting, connected with, commenting on, discussing, showing, describing, mentioning, analyzing, evidencing, or having any logical or factual connection with the matter referred to.

TOWN INTERROGATORIES AND REQUESTS TO ADMIT

Q.Town:CS.1-1. What measures, if any, shall be taken to ensure that screening of the proposed site will provide a year-round visual screen of the location.

Q.Town:CS.1-2. What materials will be used to create screening around the proposed site? (List and describe all).

Q.Town:CS.1-3. What other methodologies that will be used to create screening around the proposed site? (List and describe all).

Q.Town:CS.1-4. Will screening plantings be monitored?

Q.Town:CS.1-5. Describe the process that will be implemented for monitoring screening plantings, including: (1) name of person tasked with monitoring plantings; (2) person responsible for making determination as to whether plantings are diseased; (3) person responsible for making determination as to whether plantings are dead; (4) credentials of persons named in (1)–(3); (5) frequency of monitoring.

Q.Town:CS.1-6. Please admit that certain planned equipment and/or system upgrades are designated for common use by both the proposed Chelsea Solar Project and the proposed, adjacent Apple Hill Solar Project.

Q.Town:CS.1-7. Please describe which equipment and/or upgrades are designated for common use by both the Chelsea Solar and Apple Hill Solar Projects.

Q.Town:CS.1-8. Please admit that, referring to the Town Plan in effect in 2014, the Public Utility Commission (as the Public Service Board) found, in connection with the previous application by Chelsea Solar LLC (Docket No. Docket 8302) that: “[W]e find that the Town Plan language is specific in nature, is specifically applicable to the Project site, and seeks to conserve scenic resources by identifying specific actionable requirements and thus constitutes a clear, written community standard.”

Q.Town:CS.1-9. Please admit that the language that the Public Service Board found to constitute a “clear, written, community standard” was the following language:

Specific design standards shall apply to new development in the Rural Conservation Districts in recognition of the existence of a concentration of agricultural and forest lands and to protect the extraordinary scenic resources such lands and uses provide. Any use in the Rural Conservation District, including single family dwellings, shall require approval under those regulatory guidelines. Development in this area cannot be sited in prominently visible locations on hillsides or ridgelines, shall utilize earth tone colors and non-reflective materials on exterior surfaces of all structures, and must minimize clearing of natural vegetation.

Q.Town:CS.1-10. Please admit that, referring to the Town Plan in effect in 2014, the Public Service Board found, in connection with the previous application by Chelsea Solar LLC (Docket No. 8302) that: “The Town Plan’s language limiting development in the Rural Conservation District represents a clear, written community standard appropriately considered in a review under Section 248(b)(5) and the first prong of the second part of the Quechee test.”

Q.Town:CS.1-11. Please admit that the findings referenced in **Q.Town:CS.1-8, 1-9,** and **1-10** are contained in an order dated February 16, 2016 in Docket 8302.

Q.Town:CS.1-12. Please admit that no appellate body has reversed the findings referenced in **Q.Town:CS.1-8** or **Q.Town:CS.1-10**, above.

Q.Town:CS.1-13. Please admit that Chelsea has argued in its Scheduling Brief dated March 9, 2018, that “re-litigation of issues already decided that are not affected or altered by the changes to the project or the changed circumstances are precluded.”

Q.Town:CS.1-14. Refer to Chelsea’s response to **Q.ANR:Chelsea.1-2**. In that response, Chelsea states that “If use of the alternative gate is required by the PUC, then access to that gate would be obtained by traveling over the adjacent property in its current condition. Construction of an access drive over the adjacent property is not proposed. There would be no specific designated path.” Please respond to the following:

- a. Please provide any photographs or any other depiction of the adjacent property within the area over which travel would be made to reach the alternative gate.
- b. Please describe the existing vegetation on the adjacent property within the area over which travel would be made in order to travel to the alternative gate.
- c. Admit that the closest distance from the proposed alternative gate depicted on Exhibit CS-BW-28 to Apple Hill Road exceeds 800 feet. If denied, please explain how the distance was measured and/or calculated, by whom, and when.

Q.Town:CS.1-15. Please refer to the Prefiled Testimony of Brad Wilson at page 6, lines 18-19. Please explain how Mr. Wilson arrived at the conclusion that “the slope of the solar array portion of the Project site gently to the southwest at an average slope around 8%.” Please provide an explanation that includes both the equation used as well as the manner in which the variables in that equation were determined.

Q.Town:CS.1-16. Please Admit that the Bennington Town Plan includes the following criteria applicable to new development in the Rural Conservation Districts: (1) development in this area cannot be sited in prominently visible locations on hillsides or ridgelines; (2) development in this area shall utilize earth tone colors and non-reflective materials on exterior surfaces of all structures; and (3) development in this area must minimize clearing of natural vegetation.

TOWN REQUESTS TO PRODUCE

1. Please produce any and all documents identified, referenced, relied upon, and or referred to in response to the preceding interrogatories and requests to admit.
2. Please produce all documents requested in the above requests for information.

Dated this 1st day of June, 2018 at Manchester, Vermont.

/s/ Merrill E. Bent, Esq.

Woolmington, Campbell, Bent & Stasny, P.C.
Attorneys for the Town of Bennington
4900 Main Street, PO Box 2748
Manchester Center, VT 05255
(802) 362-2560
merrill@greenmtlaw.com