

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]	

**Pre-Filed Direct Testimony of Daniel Monks
As Planning Director for the Town of Bennington**

The following testimony outlines the reasons for the Town of Bennington Selectboard’s conclusion that the proposed solar array would have an undue adverse impact on aesthetics and orderly development in the region, and would be inconsistent with the land conservation measures set forth in the Bennington Town Plan. The municipality recommends that the Petition for a Certificate of Public Good be denied.

1 Q: Please identify yourself.

2 A: My name is Daniel Monks. I am the Planning Director and Assistant Town
3 Manager for the Town of Bennington (referred to herein as “Town” or “Bennington”).

4 Q: What is the purpose of your testimony?

5 A: To describe the provisions of the Bennington Town Plan, Town Ordinances and
6 other municipal planning provisions applicable to the solar array proposed in
7 connection with Chelsea Solar LLC’s petition for a Certificate of Public Good, deemed
8 administratively complete as of December 1, 2017 (“Project”). I will also explain the
9 recommendations of the Town Selectboard with respect to the Project.

10 Q: Does the Town of Bennington have a Town Plan?

11 A: Yes. The Town Plan in effect at the time of the Chelsea’s First Petition for
12 Certificate of Public Good, was adopted October 11, 2010 (“Previous Town Plan,” Exhibit
13 CS-BW-23). A revised Town Plan was adopted on October 6, 2015 (“Current Town
14 Plan,” Exhibit CS-BW-81), however the provisions contained in the Revised Town Plan
15 which are relevant to this proceeding are nearly identical to the Previous Town Plan,
16 with the exception of a standalone amendment adopted on April 11, 2016 (“Siting
17 Amendment,” Exhibit CS-BW-19). Whether the Project is subject to the Siting
18 Amendment depends upon the outcome of the Town’s interlocutory appeal, which is
19 currently pending.

20 Q: Are there any other municipal provisions that are applicable to this Project?

1 A. Yes. The Town's Scenic Resource Inventory is applicable to this Project. (Exhibit
2 CS-BW-24). The Town's Solar Screening Ordinance, adopted November 9, 2015, is also
3 applicable. (Exhibit CS-BW-18). Whether the Project is subject to the Ordinance also
4 depends upon the outcome of the Town's pending interlocutory appeal.

5 Q. Can you describe how and where the Proposed Project is sited?

6 A: Yes. The proposed Project is sited in the Town's Rural Conservation District,
7 which is located in valley areas outside the Urban Growth Area, which have retained
8 their rural and open space character. The purpose of the Rural Conservation District is
9 to preserve this distinctive rural character while accommodating low density residential
10 development in a manner that avoids the need for public water supply and public sewer
11 systems. In keeping with that purpose, specific design standards apply to new
12 development in the Rural Conservation Districts in recognition of the existence of a
13 concentration of agricultural and forest lands, and to protect the extraordinary scenic
14 resources such land and uses provide. Any use in the Rural Conservation District,
15 including single-family dwellings, shall require approval under those regulatory
16 guidelines. The Town Plan states that development in this area cannot be sited in
17 prominently visible locations on hillsides or ridgelines, shall utilize earth-tone colors
18 and non-reflective materials on exterior surfaces of all structures, and must minimize
19 clearing of natural vegetation.

20 The project site is situated in a "gateway to Bennington." According to the Town
21 Plan, "Special attention should be given to visual gateways: points of transition along a

1 public highway where it is evident that the traveler is arriving at a unique place.
2 Gateways are located at entry points to the historical downtown and at places along
3 rural highways where significant visual elements of the town's landscape first appear." It
4 is a policy in furtherance of the protection of scenic resources that the Town not only
5 seek to protect, but to enhance visual gateways to the community.

6 The Town's Scenic Resources Inventory (Exhibit CS-BW-24) further describes
7 "gateways" to Bennington: "A visual 'gateway' can be described as a point along a public
8 highway where it becomes evident that the traveler is arriving at a unique place. Very
9 often gateways are located at a point of transition between the rural countryside and a
10 more developed historic town or village center. In other places they are found where a
11 view that includes locally significant visual elements first appears. Gateways offer an
12 important first visual impression to a town."

13 It continues: "There are a number of gateways in Bennington. Some are located
14 near the outskirts of Town and feature views that include important elements of the
15 local landscape such as the Battle Monument and/or surrounding mountains. . . .
16 Particularly important gateways are those located along the major state highways
17 entering Town. Gateways along Route 9 from the east and west and along Route 7 from
18 the north and south greet thousands of travelers every day. The recently open Route 279
19 is another important entry point to the Town with natural gateway scenes."

20 It continues: "From the north, as Route 7 sweeps around a bend and begins to
21 descend toward the valley, a gateway scene featuring the [Bennington] Battle

1 Monument set against Mount Anthony comes into view in dramatic fashion. This
2 sweeping view is one of the most distinctive in Bennington.”

3 Such scenic resources are unduly adversely impacted when they are no longer
4 “intact,” but rather broken up by incongruous structures and buildings.

5 The Report from the Applicant’s aesthetics expert, Mark Kane, acknowledges that
6 “the primary viewshed for the Project encompasses areas along Route 7 and VT 279.”
7 (Exhibit CS-MK-2, at 7). These areas are explicitly identified in the Town Plan as
8 “particularly important” scenic gateways, as to which special attention must be given to
9 avoid adverse visual impacts.

10 Q: Does the Town of Bennington Selectboard have a recommendation concerning
11 aesthetics and orderly development pursuant to 30 V.S.A. § 248(b)?

12 A: Yes, the Selectboard recommends that the certificate of public good be denied for
13 the Project because the Project would have an undue adverse impact on aesthetics,
14 orderly development of the region, and the public health and safety. A review of the
15 materials submitted in support of the Project reveal that the plans for vegetative
16 screening around the Project, as well as the size and dimension of the Project in
17 conjunction with the neighboring, pending Apple Hill Solar Project, would create
18 significant aesthetic, visual, safety, and environmental impacts, which would involve
19 Route 7, Route 279, and the Bennington Welcome Center, where the general public
20 would be directly affected.

1 The Project must be considered cumulatively with the now-pending Apple Hill
2 Project. The Apple Hill petition has gone through the Technical Hearing and a
3 determination as to its entitlement to a Certificate of Public Good is pending. The Town
4 considered its position as to the Apple Hill Petition for a Certificate of Public Good
5 independently from the proposed Chelsea Project due to the procedural posture of the
6 respective applications at the time.

7 It appears based on the submissions from Petitioner that the Apple Hill Solar and
8 Chelsea Solar projects do share infrastructure, and that they are under the control of the
9 same parent entity. Given this information concerning the facility, the cumulative
10 impact should be considered.

11 The Project will inevitably cause damage to the environmental, safety, visual, and
12 aesthetic values of the natural and historical surroundings around the Project site. The
13 Selectboard opposes the Chelsea Solar Project solar array, as proposed, which viewpoint
14 reflects the opinions of the citizens of the Town of Bennington.

15 Q: What is the Selectboard's view on whether the Project would have an undue
16 adverse impact on aesthetics?

17 A: The Project would have an undue adverse impact on aesthetics. The scenic
18 quality of the landscape is one of Bennington's most important assets. The Project is
19 sited in a prominent location on a hillside, and is out of character with its surroundings,
20 including the major roadways into town, the Welcome Center, woodlands and limited,
21 well set-back and screened residential areas.

1 The Project would also significantly diminish the scenic qualities of the area. The
2 Welcome Center is a carefully designed and sited facility with scenic views of the
3 Bennington Monument and the Green Mountains. It is the first stopping point in
4 Vermont for visitors entering from the west. The large-scale, modern, industrial visual
5 of the proposed solar arrays is inconsistent with the wooded setting of the surrounding
6 area.

7 Mark Kane's Visual Assessment Report (Exhibit CS-MK-2) states only that
8 retained vegetation surrounding the Project would "obsecur[e] the array," and "provides
9 considerable buffering from any direct or unfiltered view," but does not conclude that
10 the array would not be visible from the Welcome Center or from other vantage points
11 within the surrounding "gateway" area.

12 The Town Plan requires development to employ earth tone colors and non-
13 reflective materials. According to Mr. Kane's Visual Assessment Report, the Project will
14 employ "low-reflective" photovoltaic modules which are by definition not non-reflective,
15 as well as a black chain-link fence with black metal posts, which are not earth-tone
16 colors (nor are the modules). The Petitioner's aesthetics expert does not state that the
17 dark screening fencing and dark black panels for the racking system would be "earth-
18 toned," only that they will have "a more neutral visual quality."

19 Development in the Rural Conservation District should be designed to preserve
20 the agricultural and forest lands and to protect the extraordinary scenic resources such
21 lands provide. Development in this area cannot be sited in prominently visible locations

1 on hillsides or ridgelines, and must minimize clearing of natural vegetation. The Project
2 fails to meet those standards. Thus, the adverse aesthetic impact is undue because it
3 violates clear, written community standards in the Town of Bennington Town Plan and
4 the Scenic Resources Inventory, which are intended to preserve the aesthetics and
5 scenic beauty of the Rural Conservation District and the important scenic gateway areas
6 into Bennington.

7 In planning for development of the Project area, the Town has emphasized the
8 crucial importance of preserving the scenic quality of this community gateway. The size
9 of the Project (in conjunction with the proposed Apple Hill Project) and its location on a
10 hill in direct lines of sight from the Welcome Center and Battle Monument would make
11 the Project visible to thousands of visitors and motorists each day.

12 Q: What is the Selectboard's view as to whether the Project will unduly interfere
13 with the orderly development of the region?

14 A: The Project would unduly interfere with the orderly development of the region.
15 The purpose of the Rural Conservation District in which the Project is sited is to
16 preserve the District's distinctive rural and open space character while accommodating
17 low density residential development. The Town Plan specifies that any development in
18 the Rural Conservation District must protect the extraordinary scenic resources that
19 agricultural and forest lands provide and, further, that it cannot be sited in prominently
20 visible locations on hillsides of ridgelines and must minimize clearing of natural
21 vegetation.

1 The Town Plan calls for the protection and enhancement of visual gateways in
2 town, including points of transition along a public highway, where significant visual
3 elements of the town's landscape first appear.

4 As explained in my earlier testimony, the proposed Project contravenes these
5 standards. It is sited in a prominently visible location on a hillside in a gateway area of
6 Bennington. In conjunction with the nearby Apple Hill Project, over 14 acres of natural
7 vegetation would be clearcut. The Project would abruptly interrupt the intact forest
8 lands with development that is not low density or residential; and so would interrupt the
9 distinctive rural character of the area that is also a visual gateway to Bennington.
10 Bennington is the regional business, residential, and industrial center; thus, the
11 gateways to Bennington serve the entire region—not only the Town. Additionally, the
12 proposed site is located at the intersection of the main north-south and east-west travel
13 corridors in southwestern Vermont, and is thus regionally significant as a busy
14 thoroughfare. According to the Department of Transportation, the 2015 Average Annual
15 Daily Traffic (AADT) volume for Route 7 at Route 279 is 10,800. As such, the Project is
16 inconsistent with the Town Plan and unduly interferes with the orderly development of
17 the Town and surrounding area.

18 Q: Is the proposed project consistent with the land conservation measures contained
19 in the Previous Town Plan?

20 A: No, as explained in my testimony, it is the Select Board's conclusion that the
21 Project violates every one of the standards set forth in the Previous Town Plan and, as

1 such, it is inconsistent with the land conservation measures contained in the Previous
2 Town Plan.

3 Q: Is the proposed project consistent with the land conservation measures contained
4 in the Current Town Plan?

5 A: No, as explained in my testimony, it is the Select Board's conclusion that the
6 Project violates every one of the standards set forth in the Current Town Plan and, as
7 such, it is inconsistent with the land conservation measures contained in the Current
8 Town Plan.

9 Q: Is the proposed project consistent with the land conservation measures contained
10 in the Siting Amendment?

11 A: No, it is the Select Board's conclusion that the Project is not consistent with the
12 land conservation measures contained in the Siting Amendment. The solar facility does
13 not avoid undue adverse impacts to significant cultural, natural, and scenic resources
14 and aesthetic values identified by the community in the Bennington Town Plan and the
15 Scenic Resources Inventory. In addition, when considered cumulatively with the
16 pending Apple Hill solar facility, the adverse impact of the proposed project is even
17 more drastic. Furthermore, the Project is sited in a location that will adversely impact
18 scenic views, roads, and other areas identified in the Scenic Resources Inventory, in that
19 it is sited on a hillside that can be seen from many public vantage points, and which
20 forms a natural backdrop for a "gateway" to the community. Finally, when considered

1 with the pending Apple Hill Solar project, the solar facility will exceed an area of 10
2 acres, and thus cannot be adequately screened or mitigated to blend into the landscape.

3 Q: Is the proposed project consistent with the land conservation measures contained
4 in the Solar Screening Ordinance?

5 A: No. it is the Select Board's conclusion that the Project is not consistent with the
6 land conservation measures contained in the Solar Screening Ordinance. The purpose of
7 the Solar Screening Ordinance is to ensure that solar facilities do not degrade the
8 natural visual appeal of hillsides, and do not encroach visually or otherwise aesthetically
9 upon a natural or historic area or gateway. The Project will degrade the natural visual
10 appeal of the hillside on which it is located, and it will also encroach aesthetically upon a
11 natural area and a gateway to the community.

12 Screening must provide a year-round visual screen, and must be placed on
13 property owned or controlled by the owner and/or operator of the solar facility. A
14 diversity of materials must be used to create a diverse, naturalized screen rather than a
15 large expanse of uninterrupted, uniform material. When plantings that die or become
16 diseased, they must be replaced within six months. In response to the Town of
17 Bennington's requests for discovery concerning monitoring of plantings, Petitioner
18 indicated that it would do no more than comply with PUC Rule 5.800(D), which
19 requires only once per year inspection. Once per year inspection is insufficient to
20 comply with the Town Screening Ordinance, which requires diseased or dead plantings
21 to be replaced within six months.

1 The Visual Assessment Figures incorporated in Mark Kane's Report also show
2 that some of the plantings that Petitioner relies on are outside of the property owned or
3 controlled by it.

4 Approval from the Selectboard is required for proposed screening with respect to
5 proposed solar projects. The Petitioner has not sought (or obtained) approval from the
6 Town of Bennington Selectboard for its proposed screening.

7 In the prefiled testimony of Brad Wilson, Mr. Wilson concludes that the Project
8 complies with the screening requirements of the Screening Ordinance, but he does not
9 address following requirements at all: (1) diversity of materials; (2) how the Petitioner
10 will ensure that diseased or dead plantings will be replaced within six months; (3) the
11 absence of required Selectboard approval of proposed screening measures; (4)
12 degradation of the visual appeal of the hillside upon which the Project is sited; (5)
13 aesthetic and visual encroachment upon a natural area and upon a gateway to the
14 community; and (6) screening outside of the property owned/controlled by the
15 Petitioner.

16 Mr. Wilson references the prefiled testimony of the Petitioner's aesthetics expert
17 to further address screening. Mr. Kane's testimony and incorporated Report do not
18 address: (1) how the Petitioner will ensure that diseased or dead plantings will be
19 replaced within six months; (2) the absence of required Selectboard approval of
20 proposed screening measures; (3) degradation of the visual appeal of the hillside upon
21 which the Project is sited; or (4) aesthetic/visual encroachment upon a natural area and

1 upon a gateway to the community; and (5) screening outside of the property
2 owned/controlled by the Petitioner.

3 Mr. Kane's Report states that the Project is located in a "preferred site" for solar
4 pursuant to the Town Plan. Mr. Kane is referring to the "preferred sites" referenced in
5 the 2016 Siting Amendment. However, the "preferred site" standard relied upon by Mr.
6 Kane in his Report requires features that "naturally screen the entire proposed array."

7 By Mr. Kane's own testimony, this Project does not meet the definition of a
8 preferred site. For one, the proposed screening does not screen the entire proposed
9 array. Mr. Kane indicates in his Report that from certain vantage points natural
10 vegetation will provide "considerable buffering from any direct or unfiltered view"—in
11 other words, the Project will be visible from those locations. Additionally, not all of the
12 screening is "natural," to the extent that fencing fitted with an 85% black mesh fabric
13 material is being used to screen the Project. Thus, the Project is not in a preferred site as
14 defined by the Siting Amendment.

15 Q: Does that conclude your prefiled testimony?

16 A: Yes.