

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	)	PUC Case No. 17-5024
operation of the “Willow Road Project,” a	)	
2.0 MW solar electric generation facility	)	
on Willow Road in Bennington, Vermont	)	

**INTERVENORS’ REPLY BRIEF ADDRESSING THE APPLICABILITY OF
THE DEFINITION OF A SINGLE PLANT IN THIS CASE
AND WHETHER THE STANDARD-OFFER CONTRACT REQUIRES AMENDMENT**

Intervenors Mount Anthony Country Club (“MACC”) and Apple Hill Homeowners Association (“AHHA”) submit this Reply Brief in response to the Commission’s Order.

1. Intervenors MACC and AHHA strenuously object to the Department of Public Service’s footnoted comment that changes to access roads were in response to neighboring landowners’ concerns.

AHHA was never apprised of the plan shown in PC 156 to use Russet Drive for access to Bennington Solar. In addition, the two abutting neighbors never gave permission for access for a right of way. One was never asked and the other said no. [see Tom Cushman affidavit]

Chelsea Solar 1 proposed to use Apple Hill Road and Petitioner’s orchard parcel, which AHHA objected to from the very beginning. AHHA moved to intervene in 2014 on that issue and were denied. Petitioner continued the case with the proposal to use Apple Hill Road over the objections of Intervenor Harris, while AHHA attempted to minimize the potential damage by entering into an MOU to use Apple Hill Road for operation and maintenance, an agreement that still violated the Association’s deed covenants. At no time did Chelsea Solar respond in a reasonable way to neighboring landowners concerns.

Chelsea Solar 2, now referred to as Willow Road, is the result of many legal machinations on the part of Petitioner, who threatened once again during this proceeding to use Apple Hill deed-restricted property for access to the project. It appeared to be more of a ploy rather than a real proposal, as no specific route was ever identified or proposed. Petitioner has chosen to use Willow Road because it is the only legally defensible option. The Vermont Supreme Court's decision in 2014 was not based on both projects using Willow Road. Petitioner's disregard for the concerns of the Apple Hill community have persisted throughout the more than four years of these cases, and it is offensive to AHHA to blame the neighboring landowners for Petitioner's choices. Petitioner has made it abundantly clear that it has no regard for the concerns of its neighbors.

2. Petitioner brings two net-metering cases into their Brief to allege that it is the same circumstance. Both cases – one in Cambridge and one in Burlington – utilize existing roads and existing power lines. Neither required the extension and improvement of a road, and neither required a one mile extension of a power line. The case that is most analogous to this single plant issue is the Kingdom Community Wind project in Lowell, which used an existing road that was extended by more than a mile, and used an existing transmission line that was extended for more than a mile. Each separate wind turbine has its own access driveway off of the main road, just as is proposed for two 2 MW solar arrays. It is precisely that circumstance that the statute envisioned in establishing the “single plant” standard, and which is exactly Apple Hill and Willow Road Solar propose – one 4 MW plant constructed after both the road and power line are extended.

Discussion

Petitioner proposes to construct two 2 MW solar arrays on one parcel accessed by one road and one power line in exactly the same way that wind turbine plants are constructed with multiple generators on individual driveways. Failure to recognize this identical circumstance would render the statute meaningless. Apple Hill Solar and Willow Road Project are a single 4 MW plant. For this reason, the PUC should deny issuance of a CPG in this case, and vacate the standard-offer contract for Bennington/Chelsea/Willow Road Solar.

Dated at Bennington, Vermont this 8th day of March, 2019.

Respectfully submitted,



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