

Respondent's Motion to Compel Appendix

STATE OF VERMONT
PUBLIC SERVICE BOARD

Case No. 8843

Investigation pursuant to 30 V.S.A. §§ 30 and)
209 and Public Service Board Rule 5.110(D))
into alleged lack of adequate notice and)
violations of certificate of public good)
#NMP-7438 concerning the construction of a)
group net-metered solar electric generation)
facility in Guilford, Vermont)

**PREFILED TESTIMONY OF
DANIEL POTTER
ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVICE**

June 30, 2017

Summary: The purpose of Mr. Potter's testimony is to explain the Department's position finding a Board Rule 5.100 violation regarding notice after a substantial change and to provide a recommendation on remedial action pursuant to the 30 V.S.A. § 30(c) criteria.

1 **Q1. Please state your name and title.**

2 A1. My name is Daniel Potter. I am an Energy Policy and Program Analyst for the Vermont
3 Department of Public Service (“Department”). My business address is 112 State Street,
4 Montpelier, Vermont.

5

6 **Q2. Please describe your educational background.**

7 A2. I received a Bachelor of Science in 2009 from University of Vermont with a Community
8 and International Development major and a Green Building minor. Additionally, I
9 graduated magna cum laude from Vermont Law School in 2014 earning a Master of
10 Environmental Law and Policy.

11

12 **Q3. Please describe your professional background and experience.**

13 A3. I have worked for the Department since 2016. Prior to becoming an Energy Policy and
14 Program Analyst for the Department, I was a Planner at the Southern Windsor County
15 Regional Planning Commission for (6) years. While at the Southern Windsor County
16 Regional Planning Commission, I worked with local communities to develop
17 comprehensive municipal and regional plans, reviewed Section 248 and Act 250
18 proposals, and managed the brownfields program.

19

20 **Q4. Have you ever testified before the Vermont Public Service Board (“Board”) before?**

21 A4. No.

22

23 **Q5. Please describe the purpose of your testimony.**

24 A5. The purpose of my testimony is to explain the Department’s position in this investigation
25 and to provide a recommendation on remedial action pursuant to the 30 V.S.A. § 30(c)
26 criteria.

27

1 **Q6. What were the notice requirements for a 500kW net-metered project at the time this**
2 **application was filed?**

3 A6. Board Rule 5.100 (applicable to project applications filed before January 1, 2017)
4 required an applicant proposing a system larger than 150kW to provide 45-day written
5 notice to, among other entities, the landowners of record of property adjoining the project
6 site. Additionally, section 5.110(C) of Board Rule 5.100 (Effective March 1, 2001 and
7 most recently revised January 27, 2014) states, “If the applicant makes a substantial
8 change to the proposed project, the applicant is required to provide at least 45-day notice
9 of this change to all parties and entities already notified, including any newly affected
10 adjoining property owners. For the purpose of this subsection, a substantial change is one
11 that has the potential for significant impact with respect to any of the criteria applicable
12 to the project.”

13
14 **Q7. What is your understanding of Soveren’s representations regarding pre-application**
15 **notice?**

16 A7. Soveren, Inc (“Soveren”) mailed a 45-day notice on September 11, 2015 including a site
17 plan placing the proposed solar array in the northern third of an open, hillside field
18 located south of 159 Kirchheimer Drive in Guilford, Vermont. Peter Thurell provided
19 prefiled testimony with the application that this notice was mailed to “all abutting land
20 owners” and “included a description of the project, the aesthetic impact and
21 considerations for alternative locations, the rights of the Planning Commissions to
22 comment on the project plan and extensive maps showing the location of the proposed
23 project.”

24
25 **Q8. Did the 45-day notice contain the required information about providing feedback**
26 **regarding the proposed project?**

27 A8. Although Board Rule 5.110(C) required that the 45-day notice “state that recipients may
28 file inquiries or comments with the application . . . and that recipients will also have the
29 opportunity to file comment with the Board once the application was filed,” Soveren’s
30 notice contained a section labeled “Right of the Local and Regional Planning

1 Commissions to Comment on the Project Plans” and contained language seemingly
2 directed only at the “municipal and regional planning commissions.” The Department
3 finds that this language was not in compliance with the rule and had the potential to
4 mislead abutting landowners with regard to their ability to provide comments.
5

6 **Q9. How did the 45-day notice compare to the application filed with the Board?**

7 A9. The project application filed with the Board on November 30, 2015 included a site plan
8 placing the solar array in the middle third of the open field. Soveren also claims that an
9 updated site plan depicting the solar array in the middle third of the open field was sent to
10 adjacent landowners along with a notification of application to the Board. At the time the
11 application was filed with the Board, Soveren did not provide a list of all entities that
12 received notice of the application. As such, the Board issued a Memorandum on
13 December 2, 2015 requiring Soveren to file such list and provide a copy to “all entities
14 and persons . . . entitled to notice of the application.” On December 23, 2015, Soveren
15 filed a cover letter with the supplemental materials requested by the Board’s
16 Memorandum; however, next to “[a] list of entities that received notice of the application
17 and the Date that such notice would be provided” Soveren indicated “Sent to the board
18 only.” The Department did not receive a copy of that list when it was filed with the
19 Board.
20

21 **Q10. Who first notified the Department about the subject matter of this proceeding?**

22 A10. Abutting land owners Tammy Sargent and Nick Junjulas contacted the Consumer Affairs
23 and Public Information Division of the Department (“CAPI”) in September 2016.
24

25 **Q11. Please describe the relevant portions of the investigation conducted by CAPI.**

26 A11. After receiving complaints from Tammy Sargent and Nick Junjulas that the project was
27 not being constructed in the manner depicted on the 45-day notice, CAPI conducted an
28 investigation. During this investigation, Soveren represented that the site plan was
29 adjusted by placing the project below the initial location based on a complaint from an

1 abutting landowner. Furthermore, the CAPI investigation includes a photo from Soveren
2 depicting the project as constructed in the southern third of the open field.

3
4 **Q12. Please describe why this is a violation of Board Rule 5.100.**

5 A12. As noted previously, Soveren's 45-day notice indicated that the project would be located
6 in the northern third of the open field, which was the highest point. The application filed
7 with the Board indicated that the project would be located in the middle third of the open
8 field. The project, as constructed, is located one hundred (100) feet south and one
9 hundred (100) feet west of the location depicted in the application filed with the Board.
10 Both the Agency of Natural Resources and the Department's aesthetic expert have
11 concluded that moving the project from the initial proposed location to the second
12 location had the potential for significant impact with respect to the criteria applicable to
13 this project. Thus, the change in location from the initial proposed location to the second
14 location constituted a substantial change to the proposed project and Soveren was
15 required to issue a new 45-day notice to all the parties and entities already notified.
16 Soveren did not issue a 45-day notice depicting the solar array in the middle third of the
17 open field.

18
19 **Q13. Please describe Soveren's stated reasons for moving the project from the upper
20 third of the field to the middle.**

21 A13. Soveren indicated that an abutting neighbor, Jane Krochmalney, whose property is
22 located to the southeast of the project site, contacted the site landowner requesting the
23 project be moved due to her views. According to Soveren, the site landowner—
24 Soveren's landlord—preferred the project be relocated to the middle of the field to
25 preserve agricultural productivity of the top portion of the hillside field.

26
27 **Q14. Please describe Soveren's stated reasons for moving the project a second time from
28 the middle third of the field to the southern third.**

29 A14. Conditions 8 and 9 of the certificate of public good (CPG) for this project, #NMP-7438,
30 required Soveren to conduct a rare, threatened, endangered, and nonnative invasive plant

1 inventory as well as a wetlands delineation. Once completed, the inventory and
2 delineation were required to be sent to the Agency of Natural Resources. If any rare,
3 threatened, and endangered species or wetlands were detected, Soveren was required to
4 design the project to avoid impacting them. As a result of the inventory, delineation, and
5 Soveren's work with the Agency of Natural Resources, the solar array was relocated
6 again one hundred (100) feet south and one hundred (100) feet west.
7

8 **Q15. What other CPG Condition was implicated by this move?**

9 A15. Condition 1 of the CPG required, "Operation and maintenance of the Project shall be in
10 accordance with the plans and evidence submitted in this proceeding. Any material
11 deviation or substantial change in the Project is prohibited without prior Board approval.
12 Failure to obtain advance approval from the Board for a material deviation or substantial
13 change from the approved plans may result in the assessment of a penalty pursuant to 30
14 V.S.A. §§ 30 and 247." However, Soveren did not seek approval from the Board for the
15 second change in the solar array's location, did not file a request for a non-substantial
16 change determination from the Board, or provide the Board with an as-built site plan after
17 this relocation.
18

19 **Q16. Please summarize the Department's conclusions regarding Soveren's liability.**

20 A16. The Department concludes that Soveren violated Board Rule 5.110(C) by failing to
21 reissue a 45-day notice after moving the project from the upper third of the field to the
22 middle. The Department also finds that Soveren violated the Board's December 2, 2015
23 Memorandum, which required Soveren file a list of entities that received notice and
24 provide a copy to "all entities and persons . . . entitled to notice of the application."
25 Soveren expressly indicated that it provided this information on December 23, 2015 to
26 the Board only. Finally, Soveren violated Condition 1 of the CPG by failing to either file
27 a request for a non-substantial change determination or seek Board approval of a material
28 deviation or substantial change in the Project location from the middle to the lower
29 portion of the field, which, as indicated by Mr. Buscher in his prefiled testimony,

1 presented a different view for the abutting landowner and, therefore, a potential for an
2 adverse aesthetic impact with no opportunity for mitigation.

3
4 **Q17. Does the Department recommend that the Board impose a civil penalty or other**
5 **remedial action in this proceeding under 30 V.S.A. § 30?**

6 A17. Yes. The Department recommends that the Board impose a penalty of \$5,000. The
7 Department bases this recommendation on the factors outlined in Section 30(c), which I
8 discuss below.

9
10 **Q18. Pursuant to 30 V.S.A. § 30(c)(1), please explain the Department's position as to the**
11 **extent the violation harmed or might have harmed the public health, safety or**
12 **welfare, the environment, the reliability of utility service or the other interests of**
13 **utility customers.**

14 A18. By failing to issue a 45-day notice of the change in the Project and failing to comply with
15 the Board's Memorandum, Soveren violated state law, resulting in harm to the regulatory
16 oversight process and potential harm to all of the criteria under review.

17 Respondent's actions to move forward in the regulatory process without providing 45-
18 day notice of the change in the Project also deprived adjacent residents the opportunity to
19 participate in the regulatory process and to have their concerns heard by the Board.

20 Nearby residents rely upon these rules and the accuracy of the information provided to
21 assess potential impacts and determine an appropriate level of engagement in the
22 regulatory process. If a revised 45-day notice had been issued by Soveren, as required by
23 Board Rule 5.110(C), nearby residents may have elected to offer comments or participate
24 in the proceedings. Failure to abide by the regulatory process also harms the credibility
25 of Board proceedings and diminishes the public's confidence in utility oversight.

26 Beyond the harm to the regulatory process, the Department is not aware of any actual
27 harm to the public health, safety or welfare, or to the reliability of utility service resulting
28 from the violation.

29

1 **Q19. Pursuant to 30 V.S.A. § 30(c)(2), please explain the Department’s position as to**
2 **whether the Respondent knew or had reason to know the violation existed and**
3 **whether the violation was intentional.**

4 A19. As noted above, Board Rule 5.100—operative at the time the application was filed—
5 required a second 45-day notice if a substantial change has been made to a proposed
6 project. The Respondent’s choice to move the Project from the upper third of the field to
7 the middle field triggered the need for a second 45-day notice. The fact that Peter Thurell
8 claims he conducted an analysis of the section 248 criteria after the solar array was
9 moved from the upper third to the middle and concluded there was no potential for a
10 significant impact demonstrates that Soveren knew or should have known of this
11 violation and affirmatively elected not to issue another notice. The fact that the Project
12 had to be relocated a third time after consultation with ANR demonstrates, at best, that an
13 analysis was conducted but was insufficient, or, at worst, that an analysis was not
14 conducted and Respondent proceeded without having providing notice that it knew was
15 necessary.

16
17 **Q20. Pursuant to 30 V.S.A. § 30 (c)(3), please explain the Department’s position as to the**
18 **economic benefit, if any, that could have been anticipated from an intentional or**
19 **knowing violation.**

20 A20. The Respondent potentially realized an economic benefit by not conducting an additional
21 45-day notice. Additionally, by not sending an updated 45-day notice, the Respondent
22 avoided potential litigation costs and/or costs related to additional aesthetic analysis and
23 potential mitigation measures. Further, providing a second notice—with its attendant
24 waiting period—may have implicated Respondent’s funding as many of the financing
25 arrangements for solar development depend on particular timelines.

26
27 **Q21. Pursuant to 30 V.S.A. § 30 (c)(4), please explain the Department’s understanding as**
28 **to the length of time that the violation existed.**

29 A21. The 45-day notice sent by Soveren to abutting landowners on September 11, 2015
30 depicted the solar array in the top third of the field. The application filed with the Board

1 on November 30, 2015 included a site plan showing the project on the middle third of the
2 open field. Finally, photos documenting the project as built were included in Soveren's
3 response to the CAPI investigation on September 26, 2016.
4

5 **Q22. Pursuant to 30 V.S.A. § 30 (c)(3), please explain the Department's position as to the**
6 **deterrent effect of the penalty it proposes.**

7 A22. The Department believes a \$5,000 penalty in this investigation is warranted to respond to
8 Soveren's violation of Board Rule 5.100 and the Board's Memorandum and to deter
9 similar violations in the future. The magnitude of this penalty is directed at protecting the
10 credibility of the Board process, both with respect to Soveren's future actions, as well as
11 those of other developers who must navigate the regulatory process in the future. The
12 Department believes a penalty of \$5,000 is appropriate here, where the Respondent had a
13 wealth of knowledge and resources at their disposal as they have developed many net-
14 metering projects in the State. According to the Respondent's website, "Soveren began
15 exclusively installing photovoltaic systems in 2010, and since then has installed nearly
16 2000kW of PV for more than 100 clients." A lower penalty would not be sufficient to
17 impress upon Respondent and other similarly-situated individuals that they are
18 responsible for ensuring that they are in compliance with state law and Board Rules.
19

20 **Q23. Pursuant to 30 V.S.A. § 30 (c)(6), please explain the Department's position as to the**
21 **economic resources of the Respondent and how this affects the Department's**
22 **proposed penalty.**

23 A23. Based on the business Respondent does, the Department believes its penalty
24 recommendation is appropriate.
25

26 **Q24. Pursuant to 30 V.S.A. § 30 (c)(7), please explain the Department's position as to the**
27 **Respondent's record of compliance.**

28 A24. The Department is not aware of any previous violations committed by Soveren with
29 respect to matters under the Board's jurisdiction.
30

1 **Q25. Pursuant to 30 V.S.A. § 30 (c)(8), please explain any aggravating circumstances.**

2 A25. The Department is not aware of any aggravating circumstances that should impact the
3 Board's imposition of a penalty.

4

5 **Q26. Pursuant to 30 V.S.A. § 30 (c)(8), please explain any mitigating circumstances.**

6 A26. The Department considers Soveren's collaboration with ANR to arrive at the as-built
7 location of the Project—to avoid natural resource impacts—a mitigating factor with
8 regard to the violation of CPG Condition 1. Although, the Department still believes that
9 Respondent should have sought approval of this change in location from the Board or
10 filed a non-substantial change determination.

11

12 **Q27. Does this conclude your testimony?**

13 A27. Yes.

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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-3048-INV

Investigation pursuant to 30 V.S.A. §§ 30 and 247 into)
alleged violations by GMPSolar – Hartford, LLC of a)
certificate of public good, issued in Docket 8580,)
concerning the construction and operation of a solar)
generation facility located in Hartford, Vermont)

PREFILED TESTIMONY OF

HAL COHEN

ON BEHALF OF THE

VERMONT DEPARTMENT OF PUBLIC SERVICE

July 14, 2017

Summary: The purpose of Mr. Cohen's testimony is to provide the Department's recommendation for a civil penalty pursuant to the 30 V.S.A. § 30.

1 **Q1. Please state your name and title.**

2 A1. My name is Hal Cohen. I am a Specialist III in the Consumer Affairs and Public
3 Information (“CAPI”) Division of the Vermont Department of Public Service
4 (“Department”). My business address is 112 State Street, Montpelier, Vermont.
5

6 **Q2. Please describe your professional background and experience.**

7 A2. I have worked for the Department in the CAPI Division since January 2017. Prior
8 to my current position, I was Secretary of the Agency of Human Services (2015-2017)
9 and the Executive Director of Capstone Community Action (previously known as Central
10 Vermont Community Action Council/1996-2015). I am one of the founding members
11 and a current member of the board of the Vermont Low Income Trust for Electricity
12 (“VLITE”).
13

14 **Q3. Have you ever testified before the Vermont Public Utility Commission**
15 **(“Commission”) previously known as the Vermont Public Service Board?**

16 A3. Yes. Over 5 years ago, I testified before the Commission regarding the award of
17 the Regional Greenhouse Gas Initiative funds to Central Vermont Community Action
18 Council and Vermont Energy Investment Corporation.
19

20 **Q4. Please describe the purpose of your testimony today.**

21 A4. The purpose of my testimony is to provide the Department’s recommendation on
22 whether and to what extent GMPSolar - Hartford, LLC (“GMPSolar Hartford”) should be
23 penalized pursuant to 30 V.S.A. § 30 for failing to comply with a condition of a
24 Certificate of Public Good (“CPG”) issued in Docket 8580.
25

26 **Q5. Does the Department believe that GMPSolar Hartford’s actions violated condition**
27 **17 of its CPG.**

28 A5. Yes.
29

1 **Q6. Upon what evidence does the Department base its conclusion that a violation**
2 **occurred?**

3 A6. GMPSolar Hartford self-reported the violation. On December 22, 2016,
4 GMPSolar Hartford filed a letter indicating that it had not provided the Vermont Agency
5 of Natural Resources (“ANR”) with the results of the Rare, Threatened and Endangered
6 Plant (“RTE”) survey in advance of construction as required under Condition 17 of its
7 CPG. GMPSolar Hartford represented that prior to construction, an RTE survey was
8 conducted and a memorandum was completed summarizing the results of the survey.
9 However, GMPSolar Hartford further represented that after construction was completed,
10 it was discovered that due to an oversight, a copy of the RTE survey had not been
11 provided to ANR for review and field verification. GMPSolar Hartford indicated that
12 once the oversight was discovered, ANR was provided a copy of the RTE survey report.
13

14 **Q7. Does the Department recommend that the Commission impose a penalty in this**
15 **proceeding under 30 V.S.A. § 30?**

16 A7. Yes. The Department is primarily concerned that CPG holders in general and
17 GMPSolar Hartford in particular comply with the terms and conditions of CPGs.
18 GMPSolar Hartford self-reported this violation and any penalty imposed should not act as
19 a deterrent or disincentive to self-reporting. The Department acknowledges that no harm
20 was done to rare, threatened or endangered plant species to the best of its knowledge.
21 Further, GMPSolar Hartford has agreed to put a plan in place to prevent similar future
22 occurrences. However, there has been harm to the regulatory process; a CPG holder of
23 this sophistication could have prevented this mistake. The Department recommends that
24 the Commission impose a \$3,000 civil penalty based upon its review of other penalties
25 issued by the Commission in the recent past. Additionally, GMPSolar Hartford should
26 provide a written plan detailing how it will prevent similar future violations and make an
27 assurance to that effect. The Department bases this recommendation on the factors
28 outlined in Section 30 V.S.A. § 30(c), which I discuss below.
29

1 **Q8. Pursuant to 30 V.S.A. § 30(c)(1), please explain the Department's position as to the**
2 **extent the violation harmed or might have harmed the public health, safety or**
3 **welfare, the environment, the reliability of utility service or the other interests of**
4 **utility customers.**

5 A8. There has been no harm to rare, threatened or endangered species, to the best of
6 my knowledge, by failing to comply with Condition 17 of the CPG. The failure to file
7 the report does not seem to be intentional. A penalty and an assurance that a similar
8 violation will not happen again is warranted as a deterrent to future violations.
9 GMPSolar Hartford has sufficient economic resources to sustain a penalty and to comply
10 with the plan they assure us will be implemented without significant harm to its economic
11 standing and/or harm to the viability of this project. There is no record of other
12 compliance concerns for GMPSolar Hartford. There is no harm done to service
13 reliability as affects utility customers. There are no other aggravating factors to note. By
14 failing to comply with Condition 17 of the CPG, GMPSolar Hartford violated state law,
15 resulting in harm to the regulatory oversight process. Investigating and responding to a
16 CPG violation requires the use of valuable and limited resources of the Department and
17 the Commission. Projects that are found to be in the public good by the Commission are
18 subject to their CPG conditions and the public has an interest in those conditions being
19 met. Failure to abide by the regulatory process harms the credibility of the Commission
20 proceedings and diminishes the public's confidence in utility oversight. Furthermore,
21 although the RTE survey did not identify any listed RTE species, it does identify the
22 presence of one plant species that is not listed as RTE but would be considered extremely
23 rare in Vermont, the Cream Colored Avens (*Geum virginianum*). According to ANR in a
24 letter to the Commission dated December 21, 2016, this Avens species is not on any of
25 the Agency's RTE lists because it is not known to occur in Vermont as it is more
26 southern in distribution and is considered rare in Massachusetts. If the species was
27 correctly identified and native, ANR states that it would be extremely rare here. The
28 ANR botanist believed the species was likely misidentified and requested, GMPSolar
29 Hartford have their consultant, VHB, do an additional field visit. On July 6, 2017,
30 VHB's Environment Scientist again visited the site and determined that the Aven's

1 previously identified was in fact misidentified. It is the common and not rare species.
2 Whether a species was misidentified or not, not submitting the survey prior to the
3 commencement of construction, precluded ANR from verifying with certainty that no
4 RTE species was impacted and potentially might have harmed the environment.

5
6 **Q9. Pursuant to 30 V.S.A. § 30(c)(2), please explain the Department's position as to**
7 **whether the Respondent knew or had reason to know the violation existed and**
8 **whether the violation was intentional.**

9 A9. At this time, the Department is not aware of any evidence demonstrating an
10 intentional violation.

11
12 **Q10. Pursuant to 30 V.S.A. § 30 (c)(3), please explain the Department's position as to the**
13 **economic benefit, if any, that could have been anticipated from an intentional or**
14 **knowing violation.**

15 A10. The Department is not aware of any evidence that demonstrates that GMPSolar
16 Hartford obtained an economic benefit from an intentional or knowing violation.

17
18 **Q11. Pursuant to 30 V.S.A. § 30 (c)(4), please explain the Department's understanding as**
19 **to the length of time that the violation existed.**

20 A11. The Department's understanding is that the violation existed when construction
21 commenced. GMPSolar Hartford's letter of December 22, 2016 states that it provided
22 ANR with the survey once the oversight was discovered.

23
24 **Q12. Pursuant to 30 V.S.A. § 30 (c)(5), please explain the Department's position as to the**
25 **deterrent effect of the penalty it proposes.**

26 A12. The Department believes the \$3,000 penalty proposed herein is sufficient to
27 address GMPSolar Hartford's violation and to deter similar violations in the future. The
28 Department believes a penalty of this size is necessary to ensure the credibility of the
29 Commission process, both with respect to GMPSolar Harford's future actions, as well as
30 those of other utilities and developers who must navigate the regulatory process in the

1 future. The Department believes a penalty of \$3,000 is appropriate here, where the CPG
2 holder has sufficient knowledge and resources at their disposal to comply with their
3 agreed upon conditions with a requisite level of care and due diligence. A lower penalty
4 would not be sufficient to place the CPG holder and others similarly situated on notice
5 that they are responsible for ensuring that they and their consultants are in strict
6 compliance with state law and other applicable Commission requirements. If not for the
7 mitigating factors identified in A15, the Department would have recommended a higher
8 penalty.
9

10 **Q13. Pursuant to 30 V.S.A. § 30 (c)(6), please explain the Department's position as to the**
11 **economic resources of the Respondent and how this affects the Department's**
12 **proposed penalty.**

13 A13. The Department believes that GMPSolar Hartford has sufficient resources to pay
14 this penalty without adverse impact to its business or customers. The Department
15 believes a \$3,000 penalty is necessary to preserve the integrity of the Commission's
16 review and to deter similar violations in the future.
17

18 **Q14. Pursuant to 30 V.S.A. § 30 (c)(7), please explain the Department's position as to the**
19 **Respondent's record of compliance.**

20 A14. The Department is not aware of any other compliance issues concerning
21 GMPSolar Hartford.
22

23 **Q15. Pursuant to 30 V.S.A. § 30 (c)(8), please explain any aggravating or mitigating**
24 **circumstances.**

25 A15. The Department has taken under consideration a number of mitigating
26 circumstances, as follows: GMPSolar Hartford did self-report their violation of CPG
27 Condition 17 and they have been cooperative with our investigation. When the
28 Department asked GMPSolar Hartford what they would do to prevent future CPG
29 violations, they informed us that they developed a matrix to be used for all Section 248
30 projects going forward that will track CPG conditions and responsibility and timing for

1 all conditions. They state that this matrix will improve communication and coordination
2 regarding CPG conditions to avoid a similar issue in the future. The Department would
3 be recommending a \$5,000 civil penalty but for these mitigating factors.
4

5 **Q16. Does this conclude your testimony?**

6 A16. Yes.