

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Investigation pursuant to 30 V.S.A. §§ 30)
and 209 into whether the petitioner initiated)
site preparation at Apple Hill in Bennington,) Case No. 20-1611-INV
Vermont, for electric generation in violation)
of 30 V.S.A. § 248(a)(2))

DEPARTMENT OF PUBLIC SERVICE COMMENTS

On June 26, 2020, the Public Utility Commission (“Commission”), announced, after holding a hearing on the matter, that it was granting a temporary restraining order (“TRO”) against further tree clearing activities by petitioner in violation of 30 V.S.A. § 248(a)(2). That same day, the Commission issued a written order on the TRO (“Order”). On June 27, 2020, Vermonters for a Clean Environment emailed comments to the Commission, the Department of Public Service (“Department”) and the Agency of Natural Resources (“ANR”) that petitioner’s logger was on the Apple Hill site in Bennington clearing land in violation of the TRO.

The Order states that the TRO applies to the entire 27-acre parcel, which includes the Apple Hill and Willow Road parcels. However, the Order also states that the TRO applies to the Apple Hill parcel specifically and does not mention whether it applies to the Willow Road parcel as well. Therefore, the Order as currently written is unclear regarding to which parcels the TRO applies. The Department posits that clarification about where specifically site clearing is prohibited under the TRO would be beneficial to all parties. Further, it would also be beneficial to all parties for the petitioner to clarify exactly where – either on the Apple Hill parcel or the Willow Road parcel or both – it is conducting site clearing.

In light of these questions, it is the position of the Department that this investigation merits further discussion regarding Commission procedure. The Department therefore requests

that before the July 9, 2020 preliminary injunction hearing is held, the Commission schedule a status conference to discuss the possible taking of evidence and filing of testimony.¹ Relatedly, it is the understanding of the Department that ANR is requesting additional information be provided in order to determine whether state personnel will again visit the site. Because the issue of rare and very rare plants is outside the purview of the Department, we will be deferring to ANR and at this time, do not plan to send Department personnel to the site.

Dated at Winooski, Vermont, this 30th day of June, 2020.

Vermont Department of Public Service

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¹ The Order as currently written states that petitioner shall cooperate with the Commission in its investigation on the site clearing matter, but details nothing in the way of the scope of procedure of the proceeding. See Order at 7.