

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

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

**VERMONT AGENCY OF NATURAL RESOURCES RESPONSE TO MOTION
TO VACATE INJUNCTION HEARING**

On July 1, 2020, Apple Hill Solar LLC filed a motion to vacate the injunction hearing scheduled for July 9, 2020.

On July 2, 2020, the Vermont Public Utility Commission (“Commission”) issued an order postponing the hearing and setting a briefing schedule related to the motion to vacate the injunction hearing. The Vermont Agency of Natural Resources (“Agency”) now provides the following response to the motion.

The Agency agrees with the Department of Public Service’s (“Department”) position, reflected in the Department’s filing made today, that the Commission has jurisdiction to issue an injunction in this matter. The Agency believes that the Commission’s jurisdiction in this matter extends to the entire 27-acre parcel on which the Apple Hill and Willow Road (formerly Chelsea) solar projects have been proposed, and to all entities affiliated with the petitioners for those two projects.

The owner of this 27-acre parcel (“Willow Road Parcel”), PLH LLC, and the petitioners for the proposed Apple Hill solar electric generation facility (“Apple Hill Project”) and Willow Road (formerly “Chelsea”) solar electric generation facility (“Willow Road Project”), as well as Allco Renewable Energy Limited, are effectively

one and the same and are referred to collectively herein as the “Developer.”¹ The Willow Road Parcel is the host property for both the Apple Hill and Willow Road Projects.²

The Commission’s June 12, 2019 final order denying a certificate of public good for the Willow Road Project was issued “without prejudice to the Developer’s ability to file an amendment to the Petition.”³ During the evidentiary hearing held by the Commission on June 26, 2020 in this matter, Thomas Melone testified on behalf of the landowner as well as Apple Hill Solar LLC and Chelsea Solar LLC.⁴ Mr. Melone testified that the Developer is still pursuing the solar projects on the Willow Road Parcel.⁵

The Agency recommends that the Commission’s June 26, 2020 TRO be amended to reflect that the Commission has regulatory jurisdiction over PLH LLC, PLH Vineyard Sky, LLC, Allco Renewable Energy Limited, Chelsea Solar LLC and Apple Hill Solar LLC. Limiting the Commission’s jurisdiction to only petitioners in such instances as what are presented in this case would only promote circumvention of the standards and requirements of Title 30 and encouraging gaming the system at the expense of developers who are willing to play by the rules.

¹ PLH LLC, the owner of the Willow Road Parcel, Allco Renewable Energy Limited, Chelsea Solar LLC and Apple Hill Solar LLC are all related entities under common ownership and control. *See*, Case No. 17-5024, Petition of Chelsea Solar, Order dated 6/12/2019, at page 56, fn. 70; *see also*, Case No. 8454, Procedural Order Re: PLH Motion to Intervene, dated 6/15/2017, at page 2. For purposes of this Memorandum, these entities are collectively referred to as the Developer.

² *See*, Docket Nos. 8302 and 8454, and Case No. 17-5024.

³ Case No. 17-5024-PET, order dated 6/12/2019 at page 56.

⁴ Mr. Melone, at that time, stated that the landowner was PLH Vineyard Sky, LLC. Tr. 6/26/20 at 11 (Melone). However, all prior filings by the Developer in Docket Nos. 8302 and 8454 and in Case No. 17-5014-PET, have identified the landowner as PLH LLC. *See*, various filings in Docket Nos. 8302 and 8454 and in Case No. 17-5014-PET.

⁵ Case No. 20-1611-INV, Tr. 6/26/20 at 63, 70.

Dated July 15, 2020, at Waterbury, Vermont.

Respectfully submitted,
State of Vermont
Agency of Natural Resources



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