

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Investigation pursuant to 30 V.S.A. §§ 30 and) Case No. 20-1611-INV
209 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)

AFFIRMATION OF THOMAS MELONE
IN SUPPORT OF DISSOLVING THE TEMPORARY RESTRAINING ORDER

I, Thomas M. Melone, hereby declare and affirm under penalty of perjury:

1. I am the President of Allco Renewable Energy Limited (“Allco”). I represent Apple Hill Solar LLC (“AHS”) and Chelsea Solar LLC in the above-captioned matter. I am also counsel to PLH Vineyard Sky LLC (“PLH”). The facts set forth herein are based on my personal knowledge and if called as a witness I could competently testify thereto. This declaration is being provided in support of AHS’s motion to dissolve the temporary restraining order (“TRO”) issued in this case on June 26, 2020.

2. I am an attorney in good standing licensed to practice law in the states of New Jersey and New York for approximately thirty-six years. I am also an attorney in good standing licensed to practice law in the states of Massachusetts, Florida, Connecticut, Pennsylvania and Vermont. I have extensive experience as outside counsel in tax, energy and finance, including seven years practicing law with Cravath, Swaine & Moore in New York. I am currently a member of the litigation committee of the Board of Advisors of the Institute for Policy Integrity at New York University School of Law. I received my Juris Doctor with high honors from Rutgers Law School - Newark in 1983, my Master of Laws (LLM in taxation) from New York University School of Law in 1989 and my Certified Public Accountant certificate in 1980.

3. On March 23, 2020, pursuant to Commission Rule 2.204(G), AHS filed an amendment (the “Amendment”) to its petition for a certificate of public good in docket 8454.¹ In accordance with Rule 5.406 and 5.407 and 30 V.S.A. § 248(a)(4), AHS requested a public hearing on the petition as amended and provided the required notice of the Amendment to persons entitled to such notice.

4. At the time the Amendment was filed the Vermont Agency of Agriculture, Food and Markets (“AAFM”) was not accepting new registrations for 2020 for hemp growing. As a result, PLH assumed that the earliest it would be permitted to grow hemp would be 2021. As I stated in my testimony of June 26, 2020 (Tr. at 87), PLH filed a registration with AAFM for growing hemp to be effective when AAFM approved the registration.

5. On June 29, 2020, AAFM notified PLH that its registration was accepted, complete and effective for 2020.

6. The site clearing activities (the “Clearing Activity”) underway at the parcels located in Bennington Vermont, one of which is proposed to be the location of solar facilities described in docket 8454 and case 17-5024, are completely independent of those proposed solar facilities.

7. I refer to factual finding #5 in the TRO. I testified that the primary reason for PLH *getting into the business of sheep farming* was “to graze at solar projects” throughout the Northeast. At no time did I state (as Finding #5 claims) that “[t]he sheep grazing is being done ‘primarily’ to control vegetative growth at the petitioner’s planned solar projects at the site.”

8. Prior to any solar facility that might be approved for and placed on part of the site, the sheep would primarily be grazing—but only while they were on the site and not at some other site. After any solar facility might be placed on part of the site, the sheep would *primarily be doing*

¹ Commission Rule 2.204(G)(1) provides: “Proposed amendments may be filed at any time.”

the same thing on a daily basis—grazing—but only while they were on the site and not at some other site. The raising, feeding, and management of the sheep is a completely separate business and farming activity.

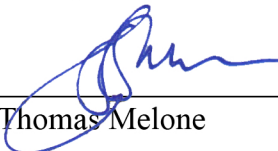
9. The landowner and owner of the sheep, PLH, would be operating a farming business. The hoped-for solar projects at the site (which the Public Utility Commission has denied certificates of public good for both) would be a portion of the solar projects that would be serviced by the sheep, both Allco-related projects and third-party projects (in New York, Vermont, Massachusetts and Connecticut).

10. PLH's proposed activities of raising, feeding and management of sheep fit squarely within 10 V.S.A. § 6001(22)(b). PLH's proposed activities of selling lambs and wool fit squarely within 10 V.S.A. § 6001(22)(e). PLH's proposed activities of growing, storing and processing hemp fit squarely within 10 V.S.A. § 6001(22)(a) and (e).

11. Attached hereto is exhibit AHS-3, which is a photo taken by Mr. Kobelia of the clearing map referred to in his testimony of June 26, 2020.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: August 16, 2020



Thomas Melone

