

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Application of MHG Solar LLC for a certificate)
of public good, pursuant to 30 V.S.A. §§ 8010)
and 248, to install and operate a 500 kW group)
net-metered solar electric generation facility) Case No. 20-1261-NMP
located off Richville Road in Manchester,)
Vermont, to be known as the “Richville Road)
Solar Project”)

THIRD SUPPLEMENTAL PREFILED TESTIMONY OF THOMAS HAND

April 2, 2021

Summary: Mr. Hand’s testimony addresses the significant issues expressed in the Public Utility Commission’s (“Commission” or “PUC”) February 23, 2021 Order and responds to the Commission’s March 18, 2021 Information Requests.

1 **Q1. Please state your name, occupation, and business address.**

2 A1. My name is Thomas Hand. I am the founder of MHG Solar LLC (“MHG”). The principal
3 business address for MHG Solar LLC is 170 Bonnet Street, Manchester Center, VT 05255.

4
5 **Q2. Have you previously submitted testimony in this proceeding?**

6 A2. Yes, I submitted prefiled testimony on behalf of MHG Solar LLC (“MHG”) that was part of
7 the application for the Richville Road Solar Project (“Project”) on May 19, 2020, and filed
8 supplemental prefiled testimony on August 11, 2020 and December 11, 2020.

9
10 **Q3. What is the purpose of your third supplemental testimony?**

11 A3. The purpose of my third supplemental testimony is to reintroduce the Memorandum of
12 Understanding between MHG and the Vermont Division of Historic Preservation
13 (“VDHP”) set forth in *Exhibit MHG-TH-13* (the “MOU”), address the significant issues
14 expressed by the Commission in its February 23, 2021 Order and addressed at the
15 Prehearing Conference held on March 11, 2021, as well as to respond to the Commission’s
16 Request for Information dated March 18, 2021 (“Information Request”). In connection
17 with my testimony, I am providing email correspondence between MHG and the Town of
18 Manchester regarding MHG’s request for a preferred site designation for the Project, filed as
19 *Exhibit MHG-TH-14*, and MHG’s final “preferred site scorecard”, filed as *Exhibit*
20 *MHG-TH-15*.

21

1 **Q4. Please provide a brief description of the MHG-VDHP MOU.**

2 A4. In May 2019, VDHP conducted a site visit to the Project parcel and identified two general
3 areas of archaeological sensitivity within the northern and central portion of the proposed
4 Project footprint. The resulting MOU (*exhibit MHG-TH-13*), executed on July 10, 2020,
5 set forth a process agreed to by both parties through which the Project can be constructed
6 and operated in such a way that will not result in an adverse effect on archaeological
7 resources.¹

8
9 **Q5. Please describe the visual simulations that were prepared for the Project.**

10 A5. As requested by the Commission, MHG worked with its aesthetic consultant, TCE, Inc., to
11 create visual simulations of the proposed aesthetic mitigation plan. TCE prepared a visual
12 simulation of the proposed aesthetic plan: (1) at the time of the initial planting, (2) after 4-6
13 years of growth, and (3) at the time the vegetative screening reaches maturity. *Exhibit*
14 *MHG-LT-3*. Additionally, as a baseline comparison tool, TCE prepared a visual simulation
15 based on the requirements set forth in the Town of Manchester Land Use & Development
16 Ordinance (2018) section 7.2 Energy Generation Facilities (7.2.4) incorporating the Town's
17 request for a maximum planting height at maturity of 10-12 feet. *Exhibit MHG-LT-4*.
18 Finally, as discussed in greater detail in Lucy Thayer's testimony, the species chosen for the
19 plan were selected based on compatibility with the Project site and to ensure compliance

¹ The MOU was originally submitted as Exhibit MHG-TH-12 on July 10, 2020, but was not filed as an MOU. Subsequently, the line-of-sight analysis was also filed as Exhibit MHG-TH-12. Accordingly, to ensure a complete and clear Exhibit List, we are refiled the MOU as Exhibit MHG-TH-13 as introduced by this prefiled testimony.

1 with the Town's request to preserve the view of Mount Equinox. Thayer 2nd Supp. PFT at
2 11-12.

3
4 **Q6. The draft 2020 Manchester Energy Plan, dated February 18, 2020 (See Exhibit MHG-**
5 **TH-4 at 27) describes a process for the designation of preferred sites by the Town of**
6 **Manchester. Please provide information regarding (1) the status of the draft Energy**
7 **Plan at the time of MHG's request for a preferred site designation for the Project site**
8 **and at the time of MHG's petition to the Commission for the Project, and (2) the**
9 **process by which MHG requested a preferred site designation for the Project site**
10 **from the Town.**

11 A6. MHG commenced communications with the Town of Manchester regarding a designation
12 of preferred site (PUC Rule 5.103) in October 2019. See Exhibit MHG-TH-14². Although
13 the Energy Plan had not yet been adopted, at the request of Ms. Janet Hurley, the Town's
14 Planning and Zoning Director, MHG first submitted an application with a "preferred site
15 scorecard" on January 11, 2020. The following day MHG revised the submission at the
16 request of Ms. Hurley so that it included the word "draft" in recognition of the fact that the
17 Town had not yet adopted the Energy Plan. Ms. Hurley acknowledged "this is simply a draft
18 scorecard, not yet adopted. Also, the score is just a threshold to see if the site should be
19 considered for preferred status. Your site is being considered". *Exhibits MHG-TH-14 &*
20 *15.* Additionally, from November 2019 to March 2020, MHG discussed the project at three

² Exhibit MHG-TH-14 contains all email correspondence between MHG and the Town of Manchester's representatives regarding MHG's request for a letter of support as requested in Information Request question 1(d). Records of phone calls between MHG and the Town's representatives were not maintained.

1 public meetings before the Manchester Selectboard and three public meetings before the
2 Manchester Planning Commission. See *Exhibit MHG-TH-5* at 3-4. On March 10, 2020,
3 the Town’s Selectboard and Planning Commission executed the joint letter designating the
4 proposed site as a preferred site. *Exhibit MHG-TH-4*. MHG subsequently filed this
5 petition with the Commission on May 19, 2020.

6 It was not until after MHG filed its petition, specifically 8:54 p.m. the night of May
7 19, 2020, that the Town adopted the Energy Plan during the Selectboard meeting.³
8 Moreover, it was not until July 16, 2020, that the Bennington County Regional Commission
9 granted the Manchester Town Plan a determination of energy compliance under 24 V.S.A. §
10 4352.⁴

11
12 **Q7. Based on the timing of MHG’s request for a determination of preferred site and**
13 **subsequent filing of this Petition, please explain whether under 30 V.S.A. § 248(b)(1),**
14 **the Commission is required to “give substantial deference to the land conservation**
15 **measures and specific policies contained in a duly adopted regional and municipal**
16 **plan that has received an affirmative determination of energy compliance under 24**
17 **V.S.A. § 4352.”**

18 A7. The Commission is not required to give “substantial deference” to the Town Plan because,
19 as discussed above, at the time the Petition was filed, the Town had not adopted the Energy
20 Plan nor was the Energy Plan given an affirmative determination of energy compliance

³ See *Town of Manchester Board and Commission Minutes 2020-05-19* available at [https://sites.google.com/a/manchester-
vt.gov/board-and-commission-minutes/selectboard/2020-05-19](https://sites.google.com/a/manchester-
vt.gov/board-and-commission-minutes/selectboard/2020-05-19).

⁴ MHG provides this answer and exhibits MHG-TH-14 and 15 in response to Information Request 1(a-e).

1 under 24 V.S.A. § 4352. Thus, under the vested rights doctrine, since the Energy Plan could
2 not have been given an affirmative determination of compliance at the time of filing, the
3 PUC should not give substantial deference to the Manchester Town Plan in this proceeding.
4 *See Petition of East New Haven GLC Solar, LLC*, Case No. 16-0060-NMP, Order of 5/3/2019
5 at 2.

6 Moreover, MHG's consultant's analysis of the Project's compliance with the Town
7 Plan remains the same and concludes that the Project is in compliance with the Town and
8 Regional Plans. Thayer 2nd Supp. PFT at 7-10. As such, the Project does not interfere with
9 the orderly development of the region.⁵

10
11 **Q8. Is the Project parcel posted against trespassing? If so, when was the posting first in**
12 **effect?**

13 A8. MHG is not the current owner of the Project parcel but has an option to purchase from the
14 current owner, Blackacre LLC. To the best of my knowledge, I do not believe that the
15 Project parcel was or is posted against trespassing.⁶

16
17
18 **Q9. In respect to the Project parcel, please explain what percent of the total parcel will**
19 **the Project occupy? What percent of the parcel that is currently fields will the Project**
20 **occupy?**

21 A9. The Proposed parcel is approximately 8.06 acres with fields comprising approximately 3.88
22 acres. The proposed Project (solar field and fencing) will occupy approximately 3.05 acres

⁵ MHG provides this answer in response to Information Request 2(a-b).

⁶ MHG provides this answer in response to Information Request 3(d).

1 of land currently comprised of fields and forest. The 3.05 acres occupied by the Project is
2 comprised of approximately 2.41 acres that is currently fields and approximately 0.64 acres
3 that is currently forested. The existing cleared area under the 46,000-volt GMP line is
4 approximately 0.80 acres. Thus, the Project will occupy approximately 38% of the parcel,
5 approximately 62% of the fields.⁷

6
7 **Q10. Please describe MHG's plans for monitoring and maintaining the proposed aesthetic**
8 **mitigation including whether MHG will retain a contractor to provide these services.**

9 A10. Prior to the issuance of a CPG, MHG will not contract for services or equipment due to the
10 uncertainty surrounding completion of the project. Upon issuance of a CPG, MHG will
11 engage a contractor(s) to install, monitor, and maintain the aesthetic mitigation plantings, the
12 remaining lands, and the Project facility.⁸

13
14 **Q11. Has MHG evaluated the cost of installing and maintaining the proposed aesthetic**
15 **mitigation plan?**

16 A11. MHG worked with our aesthetic consultant, TCE, Inc, to estimate the upfront and ongoing
17 costs for the proposed landscape mitigation plan. MHG anticipates that installation costs
18 will amount to approximately \$35,000, with approximately \$1,000 thereafter in annual
19 maintenance expenses.⁹

⁷ MHG provides this answer in response to Information Request 3(e).

⁸ MHG provides this answer in response to Information Request 6.

⁹ MHG provides this answer in response to Information Requests 7 and 8.

1 **Q12. In the event that some portion of the proposed aesthetic mitigation plantings do not**
2 **survive, is MHG sufficiently capitalized to replace such plantings?**

3 A12. Yes, MHG is sufficiently capitalized to replace 100% of the aesthetic mitigation plantings in
4 the unlikely event that this becomes necessary. In determining whether to proceed with the
5 proposed Project, MHG’s financial model compared anticipated revenue against upfront and
6 ongoing costs, including planting replacements. The proposed Project’s projected income
7 stream, revenues generated from the sale of net-metering credits, will exceed the Project’s
8 pre-construction, construction, and operational costs—including the aesthetic mitigation
9 plan installation, monitoring, and maintenance costs. MHG would not have proceeded with
10 the Project if the revenues did not justify the upfront and ongoing costs of the Project.¹⁰

11

12 **Q13. Based on these facts, would it be appropriate for the Commission to require MHG to**
13 **establish a dedicated fund to ensure adequate maintenance of the proposed aesthetic**
14 **mitigation plan?**

15 A13. No. As discussed above, MHG anticipated ongoing maintenance costs in respect to
16 ensuring ongoing compliance with the proposed aesthetic mitigation plan and included them
17 in its financial model ensuring adequate financial coverage. Moreover, requiring an
18 “aesthetic fund” for aesthetic mitigation would be a novel and unnecessary requirement for
19 500 kW net metering projects in Vermont. MHG understands that it is not the
20 Commission’s usual practice to require net metering projects of this size to establish a
21 dedicated fund to ensure the Project is operated in conformance with its CPG. Rather, for

¹⁰ MHG provides this answer in response to Information Request 9.

1 projects this size, the Commission generally includes a condition in the CPG specifying the
2 required compliance. There is nothing about MHG—an entity frequently before the
3 Commission for similar projects—or the size or cost of the mitigation that raises any issues or
4 requires this case to be treated any differently. In line with Commission precedent, MHG
5 proposes to include a CPG condition that directly addresses this concern: “MHG shall
6 ensure adequate maintenance of the aesthetic mitigation plan.”¹¹

7

8 **Q14. Does that conclude your testimony at this time?**

9 A14. Yes, it does.

¹¹ MHG provides this answer in response to Information Request 10.