

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 21-0401-NMP

Petition of Putney Green Acres Solar LLC, for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 500 kW (AC) solar electric generation system in Putney, Vermont

Case No. 21-0651-NMP

Petition of Putney Blood Farm Solar, LLC for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 150 kW (AC) solar electric generation facility in Putney, Vermont

**VERMONT DEPARTMENT OF PUBLIC SERVICE'S COMMENTS  
ON HEARING OFFICER'S PROPOSAL FOR DECISION**

On January 28, 2021, in Case No. 21-0401-NMP, Putney Green Acres Solar, LLC filed with the Vermont Public Utility Commission (“Commission”) a petition under 30 V.S.A. §§ 8010 and 248 for a Certificate of Public Good (“CPG”) authorizing the construction and operation of a 500-kW photovoltaic group net-metering system located off River Road, south of Interstate 91, in Putney, Vermont (“500 kW Facility”). Subsequently, on February 1, 2021 in Case No. 21-0651-NMP, Putney Blood Farm Solar, LLC filed with the Commission a petition under 30 V.S.A. §§ 8010 and 248 for a CPG authorizing the construction and operation of a 150-kW solar net-metering system located off River Road South, north of Interstate 91, in Putney, Vermont (“150-kW Facility”) (500-kW Facility and 150-kW Facility collectively referred to herein as “Facilities”). After a comment period as well as an information request issued by the Hearing

**This document has been electronically filed using ePUC**

Officer in both aforementioned proceedings, the Hearing Officer issued a Proposal for Decision (“PFD”) on May 26, 2021, recommending denial of both CPG applications based on a single-plant determination in accordance with 30 V.S.A. § 8002(18).<sup>1</sup>

30 V.S.A. § 8002(18) defines “Plant” as:

[A]n independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project *and* uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.<sup>2</sup>

This definition, as well as Commission precedent stemming therefrom, provides a two-pronged test for determining whether two technical facilities constitute one single plant. The first prong determines whether two technical facilities are the *same project*, with relevant considerations being common ownership, contiguity in time of construction, and proximity of facilities to each other.<sup>3</sup> The second prong of this test reviews whether two technical facilities will share *common equipment and infrastructure*, such as roads, control facilities, and connections to the electric grid.<sup>4</sup>

In his PFD, the Hearing Officer determined that the 500-kW Facility and the 150-kW Facility create one plant, concluding that both plants as proposed (1) constitute the same project, and (2) would use common equipment and infrastructure for operation. While the Vermont Department of Public Service (“Department”) agrees that the Facilities share common ownership, construction timing, and physical proximity in accordance with 30 V.S.A. § 8002(18) as well as

---

<sup>1</sup> Application of Putney Green Acres, Docket 21-0401-NMP, Proposal for Decision of 5/26/21; Petition of Putney Blood Farm Solar, Docket 21-0651-NMP, Proposal for Decision of 5/26/21.

<sup>2</sup> 30 V.S.A. § 8002(18) (*emphasis added*).

<sup>3</sup> Id.

<sup>4</sup> Id.

**This document has been electronically filed using ePUC**

Commission precedent, the Department disagrees that the Facilities share common equipment and infrastructure.<sup>5</sup> Hence, the Department disagrees with the Hearing Officer’s conclusion that the Facilities constitute a single plant, as the second prong of the single-plant test has not been met.

The focal point of the Hearing Officer’s *common equipment and infrastructure* determination lies with (1) the upgrade (from single-phase to three-phase) of approximately 5,141 feet of Green Mountain Power’s (“GMP”) existing single-phase distribution line (“GMP Distribution Line”); and (2) a new 1,700-foot, three-phase line extension connecting the 500-kW Facility to the upgraded GMP Distribution Line.<sup>6</sup> Specifically, the Hearing Officer compares the proposed GMP Distribution Line upgrade to the mile-long GMP line extension in *Willow Road*, wherein the Commission found, and the Vermont Supreme Court upheld, the notion that the installation of a mile-long distribution line intended to serve two technical facilities constituted shared equipment and infrastructure.<sup>7</sup> However, the facts of the above-referenced proceedings are distinguishable from the facts of *Willow Road*.

In *Willow Road*, both proposed facilities in question required the installation of one new, mile-long distribution line extension for operation, which would have been “shared by the facilities.”<sup>8</sup> At the time, no distribution line was in place in the region of the proposed facilities. As the Hearing Officer asserts, “the two facilities [in *Willow Road*] both relied on [a new] mile-long GMP line extension that the Commission concluded was ‘a single interconnection facility for both the Willow Road Facility and the Apple Hill Facility. Sharing that new interconnection facility.... [made] the two facilities a single plant.’”<sup>9</sup> Accordingly, the mile-long line extension

---

<sup>5</sup> See Petition of Portland Street Solar, Docket 19-2484-NMP, Order of 12/23/2020 (explaining the Commission’s current precedent regarding *same plant* and *common equipment and infrastructure*).

<sup>6</sup> Docket 21-0401-NMP, Proposal for Decision of 5/26/21 at 22.

<sup>7</sup> Id.; In re Petition of Chelsea, 2021 VT 27 (2021).

<sup>8</sup> In re Petition of Chelsea Solar, 2021 VT 27 at ¶ 28 (2021).

<sup>9</sup> Docket 21-0401-NMP, Proposal for Decision of 5/26/21 at 22 (quoting Case No. 17-5024, Order of 6/12/19, at 76-77).

**This document has been electronically filed using ePUC**

in *Willow Road*—which would not have replaced an existing distribution line, but would have provided a new distribution line to an otherwise unserved location—was necessary for the operation and interconnection of both proposed facilities.<sup>10</sup> Without the mile-long line extension, neither facility could have functioned.

On the other hand, the 150-kW Facility, as proposed, can operate without the GMP Distribution Line upgrade or an extension of said line. In fact, it is only the 500-kW Facility that requires the GMP Distribution Line upgrade as well as a line extension.<sup>11</sup> The Hearing Officer notes this fact in Finding 12 of his PFD: “If the proposed [500-kW Facility] is approved and interconnected, the proposed [150-kW Facility] would interconnect via a...5,141-foot reconductored distribution line installed to interconnect the proposed [500-kW Facility] .... If the proposed [500-kW Facility] is not constructed, the [150-kW Facility] would interconnect via the existing unimproved distribution line.”<sup>12</sup>

Thus, the immediate proceedings are distinguishable from *Willow Road*. In *Willow Road*, both proposed facilities relied on the installation of a new distribution line. In the immediate proceedings, the GMP Distribution Line exists, currently serves other amenities, and can serve one of the proposed facilities should said facility be constructed and connected—the 150-kW Facility. The proposed upgrade to the GMP Distribution Line is only necessary for the interconnection of the 500-kW Facility to the GMP distribution system. Moreover, the proposed 1,700-foot, three-phase line extension will only support the 500-kW Facility and will provide no use for the 150-kW Facility.<sup>13</sup> Again, as currently configured, the GMP Distribution Line is already in place and equipped to serve the 150-kW Facility. The proposed GMP Distribution

---

<sup>10</sup> In re Petition of Chelsea, 2021 VT 27 at ¶ 28 (2021).

<sup>11</sup> Docket 21-0401-NMP, Staskus pf. 1/27/21, at 5; exhs. PGAS-MS-2, 11, and 7 at 12.

<sup>12</sup> Docket 21-0401-NMP, Proposal for Decision of 5/26/21 at 22 at 7.

<sup>13</sup> See Dockets 21-0401-NMP & 21-0651-NMP, exhs. PBFS-MS-2, PGAS-MS-2.

**This document has been electronically filed using ePUC**

Line upgrade and 1,700-foot line extension are only essential for the operation of the 500-kW Facility.

In accordance with the above, the Department maintains that the equipment and infrastructure associated with the Facilities (1) are distinguishable from the equipment and infrastructure discussed in *Willow Road*, and (2) do not share common equipment and infrastructure. Therefore, the Facilities do not meet the second prong of the single-plant test outlined by 30 V.S.A. § 8002(18) and the Commission and, consequently, are separate, technical facilities. Thus, the Department respectfully recommends that the Commission grant CPGs to Putney Green Acres Solar, LLC and Putney Blood Farm Solar, LLC for construction and operation of the Facilities.

Thank you, and please contact me with any questions.

Dated at Montpelier, Vermont this 11th day of June, 2021.

**VERMONT DEPARTMENT OF PUBLIC SERVICE**

By: /s/ Erin C. Brennan  
Erin C. Brennan, Special Counsel  
112 State Street  
Montpelier, VT 05620  
Erin.Brennan@vermont.gov