

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-0401-NMP

Application 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) net-metered solar)
electric generation facility in Putney, Vermont)

Case No. 21-0651-NMP

Application 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) net-metered solar)
electric generation facility in Putney, Vermont)

PUTNEY GREEN ACRES SOLAR LLC AND
PUTNEY BLOOD FARM SOLAR LLC
JOINT COMMENTS ON JOINT PFD DATED MAY 26, 2021
AND REQUEST FOR HEARING PURSUANT TO 3 V.S.A. 809(c)

I. Introduction

Applicants in the above-captioned matters, Putney Green Acres Solar LLC and Putney Blood Farm Solar LLC, together submit these comments on the Proposal for Decision (PFD) issued by a Public Utility Commission Staff Attorney, designated by the Commission to hear this matter and issue proposed findings of fact pursuant to 30 V.S.A. § 8(a). 30 V.S.A. § 8(a), (c). Without affording Applicants an evidentiary hearing on the issue, the Hearing Officer recommends denial of Applicants' petitions for net-metering certificates of public good (CPG), without prejudice, on grounds that the

proposed facilities are a single plant as defined by 30 V.S.A. § 8002(18). PFD at 2. If treated as a single plant, the two facilities become ineligible to satisfy the demand by retail electric customers in Green Mountain Power's service territory to participate in the state's net-metering program, the central purpose for the facilities' development.

[Putney Green Acres Solar LLC and Putney Blood Farm Solar LLC Response To Single Plant Inquiry](#), Case Nos. 21-0401-NMP & 21-0651-NMP, at 2 (Mar. 5, 2021).

Vermont's net-metering program was established by the Vermont General Assembly in 1998 to provide incentive for private investment in renewable energy resources, stimulate the State's economic growth, and enhance diversification in the energy resources used in Vermont. 1997 Vt. Laws. No. 136 § 1 (Adj. Sess.). Net-metering allows retail electric customers to offset their electric bills using monetary credits earned from the production of small electric generation facilities powered by renewable energy. Applicants' proposed 150 kW and 500 kW solar arrays will enable eligible Green Mountain Power customers to participate in the program.

Although the net-metering program has changed over the twenty-three (23) years since it was first established, it remains an integral part of the State's policy on the deployment of renewable energy generation facilities. The most recent iteration of the net-metering program introduced the concept of "preferred sites" and limited the capacity size of net-metering projects to locations listed as "preferred sites" in the Commission's net-metering rule. Pub. Util. Comm'n R. 5.103. Both projects at issue in these cases are proposed for different "preferred site" locations as discussed in these

comments. Nevertheless, the Hearing Officer's PFD reads as if net-metering were no longer state policy and asserts that Applicants have not shown their "application[s are] intended to meet the primary purpose of a net-metering facility," PFD at 23, an assertion both lacking in evidentiary support and contrary to the lawfully promulgated filing requirements in the Commission's net-metering rule.

For the reasons set out below, the Commission must reject the PFD and provide Applicants with the opportunity for evidentiary hearings on the single plant issue before denying the applications on those grounds. Applicants request the Commission reject the PFD and issue their proposed net-metering projects a CPG. In the alternative, if the Commission does not reject the PFD, then Applicants hereby request a hearing on the single plant issue before the Commission disposes of these cases on those grounds. 3 V.S.A. § 809(c).

II. Applicants Are Entitled To A Hearing On The Single Plant Issue

The Vermont Administrative Procedures Act provides applicants for Commission-issued CPGs the opportunity for a hearing on all issues and arguments raised in a CPG proceeding. 3 V.S.A. § 809(a), (c). The Commission's net-metering rule also allows for a hearing upon request of a party or intervenor. Pub. Util. Comm'n R. 5.118, 5.119. The Hearing Officer correctly notes that before he issued his proposed order, no party requested a hearing. PFD at 3. However, no party requested a hearing because no party contested the issuance of the net-metering CPGs that Applicants are seeking. Only the

Commission-appointed Hearing Officer contests the CPG applications. The Hearing Officer's opposition to the projects and his recommendation for dismissal of the pending CPG applications triggers Applicants' right to a hearing on the single plant issue pursuant to 30 V.S.A. § 809(a) and (c). The Commission must hold a hearing to develop a complete factual record on which to base findings of fact on the single plant question.

Applicants further request that the Commission use its authority under 30 V.S.A. §§ 20(a)(1) and 21(a) to hire an electrical engineer familiar with Vermont's electric grid who has expertise in electric distribution network design and the interconnection of electric generation facilities to provide testimony on the single plant issue. The scope of the expert witness's testimony should include a discussion of the distinction between an electric distribution circuit and a line extension needed to connect an electric generation facility to a utility's network in Vermont. The Commission may allocate the costs of the expert's services to the Applicants per 30 V.S.A. § 21(a) and recommends doing so through an agreed-upon scope of work. Expertise on electric distribution system design is necessary in this case because the Commission does not appear to have an electric engineer on staff qualified to assist the Hearing Officer's inquiry regarding the technical aspects of the single plant criteria.¹ Given the fact that it is only the Hearing Officer in

¹ See Appendix A to these comments for the employee list posted on the Commission's website as of the date of these comments. It must be emphasized that the Vermont Public Service Department employs an electrical engineer, and the Department did not raise any concern in their comments that Applicants' proposed facilities were a single plant.

these cases who opposes the issuance of CPGs for Applicants' projects due to a belief that they are a single plant, it is requested that the Commission engage an expert as the Legislature has empowered it to do to create a complete and accurate record on the technical facts of the two solar projects.

III. Applicants' Proposed Solar Arrays Are Two Independent Technical Facilities, Not A Single Plant

Applicants' proposed solar arrays are independent technical facilities and are not one plant. Section 8002(18) defines a "plant" as:

(18) "Plant" means an 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.

30 V.S.A. § 8002(18) (emphasis added). The statutory definition focuses on the *technical* design of proposed electric generation facilities not how the proposed facilities came to be the subject of a CPG application before the Commission.

Here, Applicants both requested CPGs for solar arrays that will net-meter for the benefit of Green Mountain Power retail electric customers who are eligible to participate in the net-metering program. Applicants have not yet executed a net-metering agreement with retail electric customers for the facilities, but such agreements are not a prerequisite to the Commission's approval and are not a required part of the

CPG application process. See [Pub. Util. Comm'n R. 5.107\(C\)](#) (setting forth application requirements for net-metering projects over 50 kW on preferred sites). As the Commission and every Vermont policy maker interested in renewable energy knows, net-metering is the only way for retail electric customers to generate their own electricity from solar power while maintaining a connection to the local distribution grid.

“Virtual” net-metering – where the facility and benefitting customers are not co-located on the same property – has been a feature of Vermont’s net-metering program since 2014. See [2013 Vt. Laws 99 § 1](#) (eff. Apr. 11, 2014). Virtual net-metering is the reason that community solar is possible in Vermont. Vermont companies installing virtually net-metered solar projects take the development and permitting risk for retail customers who want to participate in net-metering but do not have the site, resources, knowledge, or time to do so on their own.

The net-metered solar arrays at issue in the PFD are a 150-kW ground-mounted array proposed by Putney Blood Farm Solar for a 2[±]-acre parcel on the west side of I-91, registered by Agency of Natural Resources Department of Conservation Sites Management Section and certified as “Brownfield” per 10 V.S.A. § 6642, and a 500-kW ground-mounted array proposed by Putney Green Acres Solar on a 20[±]-acre parcel on the east side of I-91, registered by Agency of Natural Resources Department of Conservation Waste Management and Prevention Division, as a sanitary landfill per V.S.A. § 6602. Each project is located on a site that the Public Utility Commission

identifies as "preferred" for net-metering projects between 150 kW and 500 kW in capacity.

Putney Blood Farm Solar is proposed for a "Brownfield" site consistent with the fourth definition of a "preferred site" in the Commission's net-metering rule, and Putney Green Acres Solar is proposed for a sanitary landfill, the fifth definition of a "preferred site" for net-metering projects. Pub. Util. Comm'n R. 5.103. Four lanes of Interstate 91 and a working railroad separate the two properties, making it impossible to access either parcel from a same access off River Road South.

The properties for both proposed projects are within Green Mountain Power's (GMP) service territory, so both projects must interconnect with GMP's electric distribution network to fulfill their intended purposes: to generate electricity from a renewable source so that eligible GMP customers can offset their electric bill(s) with net-metering credits through virtual net-metering. Applicants' prefiled evidence in both cases that explained this fact:

Our company's goal is to maximize benefits for as many electric customers as possible consistent with the Commissions' rules and state law. The "off-taker" for this Project will be one that is eligible to receive and benefit from the credits because they have not already reached the 500 kW cap on net-metering facilities.

(Application of Putney Blood Farm Solar LLC, Case No. 21-0651-NMP, Prefiled Testimony of Martha Staskus at 5).

Norwich Solar is facilitating these arrangements for Putney Green Acres Solar, LLC to make beneficial use of the brownfield site in a low-impact and environmentally sound

manner while creating an opportunity for Green Mountain Power customers to earn net metering credits.

(Application of Putney Green Acres Solar LLC, Case No. 21-0401-NMP, Prefiled Testimony of Martha Staskus at 3).

While each solar array will use GMP's electric distribution infrastructure to serve participating retail customers, the systems have their own interconnection points and are technically independent; the installation and operation of one does not depend on nor is associated with the other.

In the instant cases, the applications and supporting materials filed with the PUC establish that Applicants are proposing to construct two independent technical facilities, not a group of facilities making up a single plant like a wind farm. Applicants each propose a solar array² that will separately interconnect at different individual points on the Green Mountain Power electric distribution network. The electrical design and proposed interconnection for each array was separately and sequentially examined by GMP to evaluate each project's impact on the utility's electric grid. Exhibit PBFS-MS-7, Exhibit PBFS-MS-10, Exhibit PGAS-MS-7. The individual interconnection points for each array are shown on the site plans that were filed in support of the individual project applications. See Exhibit PGAS-MS-2 and Exhibit PBFS-MS-2.

In Putney Blood Farm Solar's case, the point of interconnection is at an existing utility pole (Tag 20498) along GMP's 69K2 circuit. Exhibit PBFS-MS-7, Exhibit PBFS-MS-

² A solar array is a group of solar panels that are electrically connected so that the combined electric output from panels can be transmitted for use on the power grid.

10, Exhibit PBFS-MS-2. The Putney Green Acres Solar facility will interconnect with the same circuit but at a new utility pole near the existing pole (Tag 20505) that will be part of a new line extension built specifically to interconnect the proposed 500 kW array.

Exhibit PGAS-MS-7, Exhibit PGAS-MS-2. The new line extension required to interconnect Putney Green Acres Solar with GMP's 69K2 circuit is on the opposite side of I-91 and will not be shared with Putney Blood Farm Solar.

A. The Hearing Officer Misapprehends the Facts of Applicants' Interconnection and Misapplies the Supreme Court's Decision in *In re Chelsea Solar LLC*, 2021 VT 27, To Applicants' Proposed Net-Metering Facilities

The Hearing Officer's PFD concludes that Applicants' proposed solar projects are a single plant based on a misapprehension of the technical facts of Applicants' proposed net-metering facilities and misapplication of the Vermont Supreme Court's recent decision of *In re Chelsea Solar LLC*, 2021 VT 27. In that case, the Supreme Court used a deferential standard to review and affirm a Commission decision that determined two proposed solar facilities entered by the same developer in the standard offer program were a single plant because they "shared funding for, and use of, [a common] line extension." PFD at 11. The Court explained:

The joint system-impact study proposed a single interconnection facility rather than two separate interconnection facilities attached to residential distribution lines, one north and one south. While the two facilities did have separate points of interconnection, the PUC determined that they did not have "separate interconnection facilities designed and owned by GMP, which would limit the

capacity of each to 2.0 MW," as in the earlier proposals. [citation omitted] **There was now a single interconnection facility for both facilities.** It reiterated that this new interconnection facility, paid for by developer as part of the common scheme of development, made the two facilities a single plant.

In re Chelsea Solar LLC, 2021 VT 27, ¶ 22 (emphasis added). The PUC's findings on the single interconnection facility in that case were based in part on the developer's interconnection plan filed as Exhibit CS-BW-11 in support of the Chelsea Solar Project CPG petition. *Petition of Chelsea Solar LLC, pursuant to 30 V.S.A. § 248, for a certificate of public good authorizing the installation and operation of the "Willow Road Project," a 2.0 MW solar electric generation facility on Willow Road in Bennington, Vermont*, Case No. 17-5024-PET, Order of 6/12/2019 at 76. The plan depicted a single interconnection line extension to serve both solar projects. The PUC further found that the developer's interconnection plan arose from one, joint system impact study for the developer's two proposed 2.0 MW (AC) facilities that recommended a single interconnection line extension to send power from both solar arrays to the utility grid. *Id.* at 2, 20, 50, 51, 58 n.74, 76. The system impact study was explicit about the shared common interconnection facilities to serve the developer's two solar arrays as shown in the excerpt from the study below:

- A three-phase line extension will be required to connect the PV Facilities. Approximately 1,900 feet of 3-phase 477 AL was modeled from pole MS50_LPARK_P62 to Willow Road, pole MS50_L2136_P21 via Hewitt Dr. The 1/0 AL modeled for the Apple Hill Interconnection is insufficient for

the combined project outputs. The cost of increased conductor size will be the Project's cost responsibility.

- A three-phase line extension of approximately 3,000 feet will be required from the Apple Hill POI to the Bennington Solar PCC. This will be the Project's cost responsibility.
- At the Point Of Interconnection, one recloser, one set of disconnect switches and one primary metering rack will be required. This will be the Project's cost responsibility.

Exhibit CW-BW-9, PUC Case No. 17-5024-PET (a more complete version of the excerpt is provided in Appendix B).

In contrast to the standard offer projects discussed *In re Chelsea Solar*, Applicants' proposed facilities will not share a common interconnection line extension nor other interconnection facilities and they were not part of one, joint interconnection study by GMP. Exhibit PGAS-MS-7, Exhibit PBFS-MS-10. Applicants' facilities will each interconnect to GMP's existing distribution circuit—identified as the 69K2 circuit—that is used in common by all GMP customers along River Road serviced by that circuit. Interconnection of the Putney Green Acres Solar facility will require GMP to install a new 1700±-foot line extension and upgrade a portion of the existing circuit from single phase to three phase. Exhibit PGAS-MS-7. Putney Blood Farm Solar's proposed array will interconnect to the 69K2 circuit irrespective of the three-phase upgrade required to interconnect the Putney Green Acres Solar array, and vice versa, because the facilities are technically independent of one another. Unlike *In re Chelsea Solar*, there is no

mention in the Putney Green Acres Solar's GMP Feasibility Study of the Putney Blood Farm Solar Project and no mention in the Putney Blood Farm's GMP Feasibility Study of the Green Acres Solar Project. The two proposed facilities are not one plant.

B. An Evidentiary Hearing Is Necessary to Correct the Hearing Officer's Misapprehension of the Distinguishing Technical Facts of Applicants' Proposed Interconnections

An evidentiary hearing is necessary to correct the Hearing Officer's misunderstanding of the technical facts that distinguish Applicants' projects from the projects in the *In re Chelsea Solar LLC* case. Here, the existing 69K2 circuit onto which Applicants' projects will send their energy is a circuit that serves all GMP customers along that portion of the GMP distribution line on River Road in Putney. The distribution line circuit that runs past the Putney Blood Farm Solar site is seen in GMP's online Solar Map 2.0³ shown in the screenshot below:

³ Available at <https://gmp.maps.arcgis.com/apps/webappviewer/index.html?id=4eaec2b58c4c4820b24c408a95ee8956>.

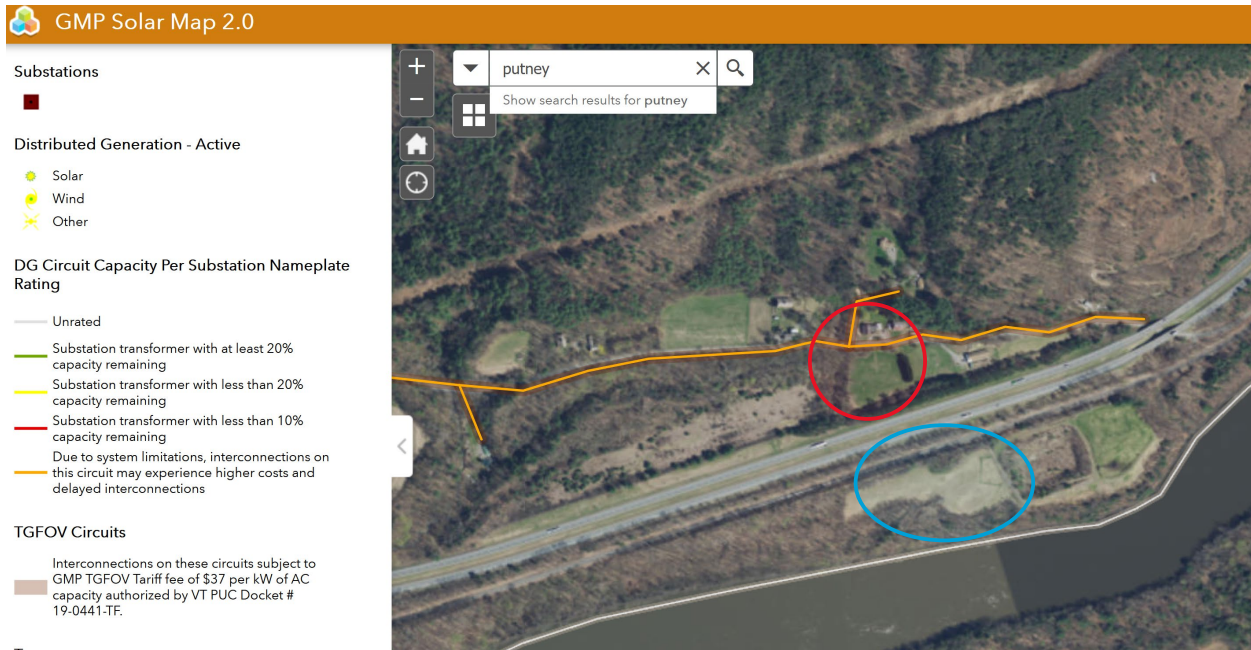


Figure 1 Screenshot of GMP Solar Map 2.0

Putney Blood Farm Solar site circled in red and Putney Green Acres Solar site circled in blue

As depicted in GMP's online Solar Map above, the 69K2 circuit is a necessary, commonly shared piece of distribution infrastructure that serves multiple customer locations along the circuit. The 69K2 circuit is not an interconnection line dedicated to Applicants' proposed solar arrays for the purpose of interconnection. The Commission must engage an expert electrical engineering witness pursuant to its 30 V.S.A. § 20(a) authority to help the Hearing Officer develop an accurate and complete factual record to support the Commission's findings and conclusions on the technical aspects of the single plant issue.

C. Administrative Notice of the "Vermont Assessor's Website" Is Improper And An Evidentiary Hearing On the Host Properties Is Required For A Full And Accurate Record

The Hearing Officer decided to take "administrative notice of a judicially cognizable fact available from the Vermont Assessor's website [internet address omitted], defining a 'SPAN' . . . as a unique number for each municipal grand list parcel in the State of Vermont." PFD at 3. A single SPAN number assigned to the host properties led the Hearing Officer to find that the proposed net-metering facilities are one plant because they are sited on the same parcel of land. PFD at 14-15.

Even if a SPAN number were conclusive of the common ownership question, no information from the "Vermont Assessor's website" is entitled to administrative notice; instead, the Hearing Officer must have admissible evidence to prove his contention that Applicants' proposed net-metering facilities are sited on the same parcel.

The Vermont Administrative Procedures Act allows the Commission to take administrative notice of "judicially cognizable facts." 3 V.S.A. § 810; V.R.E. 201. A "judicially cognizable fact" is one that is "not subject to reasonable dispute" because it is either generally known or "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." V.R.E. 201(b); *In re Amended Petition of Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., for amendment of their Certificate of Public Good and other approvals required under 30 V.S.A. § 231(a) for authority to continue after March 21, 2012, operation of the Vermont Yankee Nuclear Power Station, including the storage of spent nuclear fuel*, PUC Case No. 7862, Order

of 3/29/2013, 2013 Vt. PUC LEXIS 107, *12. "Judicial notice affords the weight of record evidence to a fact that is known to lie beyond dispute, thus obviating the need for formal proof through the evidentiary process." *Id.*

Information from the "Vermont Assessor's website" does not qualify for administrative notice because there is no basis to find that the "Vermont Assessor's website" is a source "whose accuracy cannot reasonably be questioned." V.R.E. 201. First, the Hearing Officer does not explain why he contends the Vermont Assessor's website is a source whose accuracy cannot reasonably be questioned. His PFD just asserts that the Commission can take administrative notice of information from the website.

Second, but equally important, the website address the Hearing Officer provided for the "Vermont Assessor's website" is an unsecure non-governmental ".net" website whose Home page and "About" tab contain no information on who owns or operates the site as shown in the figure below:

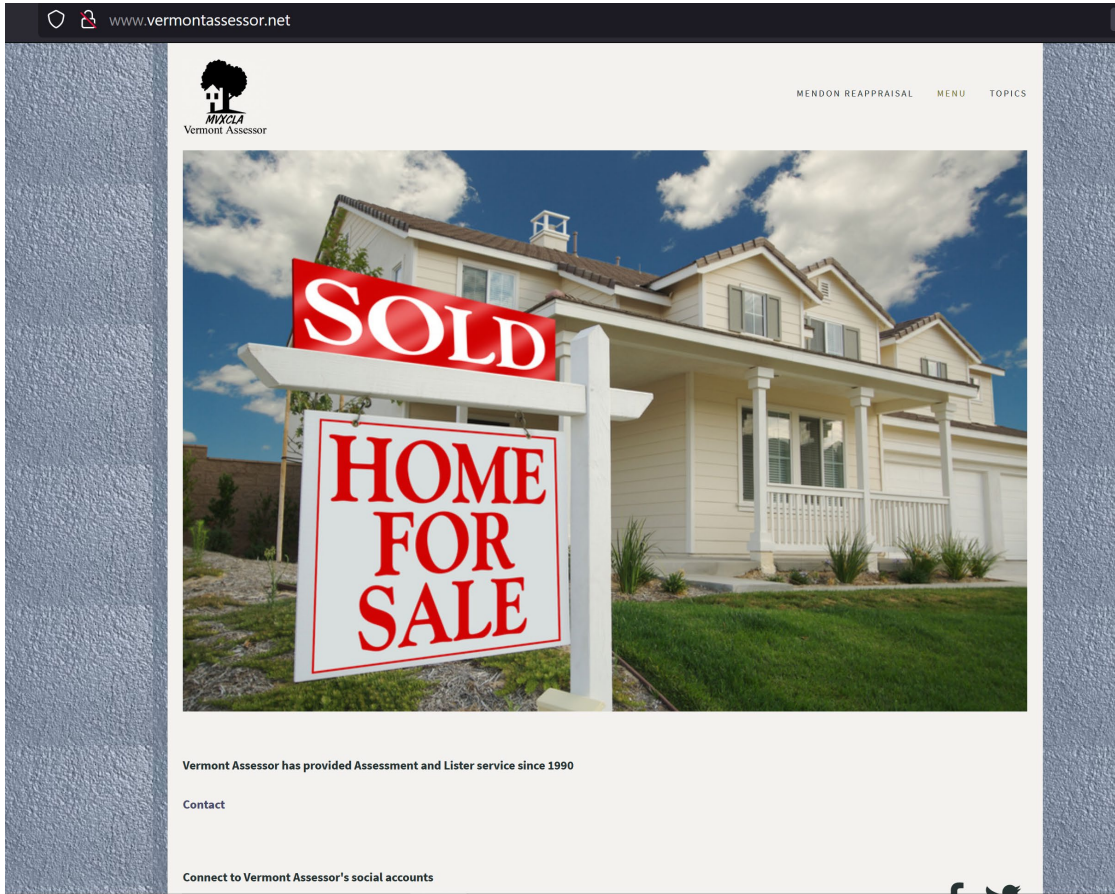


Figure 2 www.vermontassessor.net Home page/About tab

Information about the website owner that is available through a WHOIS search, a database of all registered domains on the internet, shows the owner has chosen to keep its information private through a WHOIS Contact Privacy Inc. service with an address in Toronto, Canada:

The screenshot shows the ICANN WHOIS lookup interface. At the top, the URL is https://lookup.icann.org/lookup. The main heading is "Domain Name Registration Data Lookup". Below this, there is a search bar containing "vermontassessor.net" and a "Lookup" button. A disclaimer states: "By submitting any personal data, I acknowledge and agree that the personal data submitted by me will be processed in accordance with the ICANN Privacy Policy, and agree to abide by the website Terms of Service and the Domain Name Registration Data Lookup Terms of Use." The results are divided into two sections: "Domain Information" and "Contact Information".

Domain Information

- Name: VERMONTASSESSOR.NET
- Registry Domain ID: 1896778562_DOMAIN_NET-VRSN
- Domain Status: [clientTransferProhibited](#)
- Nameservers:
 - NS-CLOUD-E1.GOOGLEDOMAINS.COM
 - NS-CLOUD-E2.GOOGLEDOMAINS.COM
 - NS-CLOUD-E3.GOOGLEDOMAINS.COM
 - NS-CLOUD-E4.GOOGLEDOMAINS.COM
- Dates:
 - Registry Expiration: 2022-01-19 10:49:31 UTC
 - Created: 2015-01-19 10:49:31 UTC

Contact Information

Registrant:

- Handle: P-CCC19220
- Name: Contact Privacy Inc. Customer 124235837
- Organization: Contact Privacy Inc. Customer 124235837
- Email: sv1tbql40kd7@contactprivacy.email
- Phone: tel:+1.4165385487
- Mailing Address: 96 Mowat Ave, Toronto, ON, M4K 3K1
- ISO-3166 Code: CA

Admin:

- Handle: P-CCC19220
- Name: Contact Privacy Inc. Customer 124235837
- Organization: Contact Privacy Inc. Customer 124235837
- Email: sv1tbql40kd7@contactprivacy.email
- Phone: tel:+1.4165385487
- Mailing Address: 96 Mowat Ave, Toronto, ON, M4K 3K1
- ISO-3166 Code: CA

Figure 3 WHOIS search result for "vermontassessor.net"

Pursuant to 3 V.S.A. §§ 809(a) and 810(4) and V.R.E. 201, Applicants are entitled to a hearing to challenge the Hearing Officer's administrative notice of SPAN information from an unsecure, non-governmental website owned by a private entity who wishes to remain anonymous and may be based in a foreign country. The fact that the Hearing Officer resorted to www.vermontassessor.net to aid his findings in the PFD suggests that he did not review the Applicants' CPG materials on file with the Commission using

a neutral and unbiased perspective. The PFD's hostility towards the Applicants' proposals reflects an anti-net-metering perspective that frustrates both the Legislature's policy for a net-metering program as an option for eligible Vermont electric customers and a tool of Vermont's renewable energy goals, and the Commission's intent to steer net-metering projects to "preferred sites" as expressed in its lawfully adopted net-metering rule.

IV. The Hearing Officer's PFD Is Rife With Findings Unsupported by Evidence

The Hearing Officer's PFD is rife with findings of fact that have no evidentiary support or twist the Applicants' evidence to meet his desired outcome. Findings untethered to admissible evidence are clearly erroneous and may not form the basis for Commission decisions in contested cases like the instant cases. 3 V.S.A. § 809(g); *In re Investigation to Review Avoided Costs*, 2021 VT 28, ¶ 18.

For example, although the Hearing Officer correctly finds that the two proposed solar arrays will be separated by an Interstate highway and working railroad, he goes on to state that "it is not uncommon for solar projects to be split into multiple facilities due to site constraints." PFD at 20. This finding leads the Hearing Officer to conclude that the proposed net-metering facilities are physically proximate and are thus a single plant. PFD at 19-21.

There is no evidence in these cases to support the alleged fact about solar projects being split into multiple facilities due to site constraints. There is also no evidence to

support a finding that Applicants' net-metering projects were split into multiple facilities because of site constraints. The Hearing Officer simply inserts this alleged fact into the PFD to support his belief that Applicants' projects are a single plant.

The Hearing Officer's findings characterize the two project sites as being located on a single 22.2-acre parcel of land, but that is not what the evidence shows. PFD at 5, 6. The Putney Blood Farm Solar Project is proposed for approximately "±0.7 acres of a larger ±2.2-acre parcel of open land located off River Road South north of Interstate 91 in Putney, Vermont." Case No. 21-0651-NMP, Prefiled Testimony of Martha Staskus at 5. The parcel is registered with the Agency of Natural Resources as a brownfield site and has its own parcel identification number. *Id.* at 10; Exhibit PBFS-MS-5 ("The Agency has determined that Parcel 2 of the former Blood Farm Dump (the Site) meets the definition of a "Brownfield" site as defined under 10 V.S.A. § 6642. The SMS has assigned a site number to the property for tracking purposes (SMS Site #2021-4993).").

The Putney Green Acres Solar Project is proposed for roughly 2.4 acres on a different 20±-acre parcel on the opposite side of Interstate 91 from the Putney Blood Farm Solar Project site. Case No. 21-0401-NMP, Prefiled Testimony of Martha Staskus at 4. The location selected for the Putney Green Acres Solar Project is a closed sanitary landfill site with a unique Agency of Natural Resources Waste Management and Prevention Division identifier. Exhibit PGAS-MS-5.

The CPG applications submitted in support of each project are supported by the different letters from different ANR divisions responsible for different potential

environmental impacts. In Case 21-0401 NMP, the DEC Waste Management and Prevention Division specifically states the site “is a sanitary landfill as designed in V.S.A. § 6602 and is suitable for the development of a photovoltaic project.” In Case 21-0651, the Agency DEC Waste Management and Prevention Division Site Management Section “has determined that Parcel 2 of the former Blood Farm Dump (the Site) meets the definition of a “Brownfield” site as defined under 10 V.S.A. § 6642 and goes on to say, “the Agency believes that further site assessment is needed to adequately characterize the recognized environmental conditions reported therein.” This is only applicable to the Putney Blood Farm Solar proposal site – not the Putney Green Acres site. The Hearing Officer’s finding that two projects are on the same parcel of land is counter to the evidence.

The Hearing Officer similarly asserts that Applicants have not shown in the CPG applications that each array is “intended to meet the primary purpose of a net-metering facility, and thus finds that “the primary purpose of [the CPG] applications is for Norwich [Technologies] to maximize the profitability of the sale of the facilities after their construction by taking advantage of the incentives of both the net-metering and BRELLEA programs.” PFD at 23. The Hearing Officer is plainly wrong. The primary purpose of the two CPG applications is to obtain the legal authority to build two net-metered solar arrays so that eligible Green Mountain Power customers who wish to net-meter can do so virtually through the two facilities. The prefiled testimony cited previously makes that clear. Moreover, the two facilities are proposed for locations

defined as "Preferred Sites" under two different provisions in the Commission's net-metering rule, one site is a "brownfield" site (PUC Rule 5.103 "preferred site" definition #4) and the other a "sanitary landfill" (PUC Rule 5.103 "preferred site" definition #5). The Hearing Officer disregards the evidence in favor of his belief that the true motive behind the projects' applications is not to serve eligible retail electric customers wishing to net meter as state law allows them to, but to increase profits of an individual Vermont business focused on contributing to Vermont's clean energy goals.

Similarly, the Hearing Officer's findings on the contiguity of the two projects' development is based on an uninformed view of how project development is conducted, whether for renewable energy projects or other commercial development. An evidentiary hearing is necessary for the purpose of informing the Hearing Officer and the Commission about how non-utility companies conduct project development, how the volunteer members of planning commissions and select boards manage their time, and why businesses dispatch their subject matter experts to perform services for multiple projects at the same time. One obvious reason for the latter practice is to reduce the greenhouse gas emissions that would be created by traveling to the same community or area in the state multiple times. In these proceedings, the Hearing Officer opted to draw his own inferences from a series of dates and tasks that he requested Applicants provide to him and which he recited at page 17-18 of the PFD. A hearing is necessary to put those facts into context for a complete understanding of the single plant issue.

The Hearing Officer also makes incorrect and misleading findings about interactions between a representative for both projects (Martha Staskus) and a Senior Planner at the Windham Regional Commission. The PFD finds that "Norwich coordinated the briefing of the two proposed facilities to the Windham Regional Project Review Committee meeting at the same time." PFD at 17. It also finds that Ms. Staskus spoke to the Windham Commission's "Deputy Planner" about the projects. PFD at 9. These findings are among those the Hearing Officer uses to support his pre-ordained conclusion that Applicants' projects are a single plant because their planning was coordinated. PFD at 15-18. However, the affidavit Ms. Staskus supplied in response to the Hearing Officer's request, and on which the Hearing Officer relies for these findings, states something quite different:

On December 22, 2020, I spoke with the Windham Regional Commission Senior Planner to discuss a project under development in the Town of Westminster. The Senior Planner asked me about the two projects in Putney she had seen the 45-day notices for and indicated that she would be adding those projects to the January 5, 2021, Windham Regional Commission ("WRC") Project Review Committee meeting. The WRC was made aware of the Putney projects planned for the Landfill Site and the Blood Farm Site following discussion of the Westminster project, but the Commission did not review or discuss the two Putney projects.

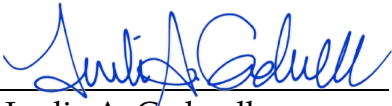
Affidavit of Martha Staskus, 3/5/2021 at ¶ 27 (attached as Appendix C). The affidavit clearly indicates that Ms. Staskus was communicating with the Windham Regional Commission's Senior Planner, not "Deputy Planner," about a project in Westminster

and not about Applicants' projects in the Town of Putney: *"I spoke with the Windham Regional Commission Senior Planner to discuss a project under development in the Town of Westminster."* *Id.* There was no coordination by Norwich for a joint project review by the regional commission's relevant review committee and it is clearly erroneous to infer from Ms. Staskus's affidavit that there was. The Hearing Officer's PFD must be rejected and a hearing on the single plant convened. 3 V.S.A. § 809(c).

V. Conclusion

The Commission must reject the PFD and issue each of the Applicants a CPG for their projects. In the alternative, if the Commission does not reject the PFD, then it must order for an evidentiary hearing and further proceedings on the single plant issue before denying the pending applications on those grounds. Further, the Commission must hire its own experts to assist the Hearing Officer's inquiry because the only party to contest the issuance of a CPG for Applicants' projects is the Hearing Officer. The Commission has authority to engage experts, including electrical engineers, and may bill back the cost of those expert services to Applicants. An accurate and complete factual record on the single plant issue developed through the adversary process and evidentiary hearing is required by 3 V.S.A. § 809(a) and (c) before the Commission may deny the applications and dismiss these proceedings on the grounds recommended by the Hearing Officer.

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

By: 

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APPENDIX A

Public Utility Commission Employee List

(<https://puc.vermont.gov/about-us/employee-list>)

Employee List

Commissioners

Anthony Z. Roisman, Chair
Margaret Cheney, Commissioner
Riley Allen, Commissioner

Operations

Ann Bishop, Operations Director
Brenda Chamberlin, Business Manager
Rowan Cornell-Brown, Solar Net-Metering Program Manager

Clerk's Office

Holly Anderson, Clerk of the Commission
Pam Lenahan, Deputy Clerk
Paul Cavaliere, Administrative Services Tech. III
Dorothy Morley, Administrative Services Tech. III
Susan Shontelle-Smith, Administrative Services Tech. III

Legal Division

Kyle Landis-Marinello, General Counsel
John Cotter, Deputy General Counsel
Steph Hoffman, Deputy General Counsel
Jake Marren, Deputy General Counsel
John Gerhard, Staff Attorney
Micah Howe, Staff Attorney
Elizabeth Schilling, Staff Attorney
Mike Tousley, Staff Attorney

Policy Division

Tom Knauer, Policy Director
Gregg Faber, Utilities Analyst
Andrew Flagg, Environmental Analyst
Mary Jo Krolewski, Utilities Analyst
Andrea Poppiti, Utilities Analyst
Joan White, Utilities Analyst

APPENDIX B

Excerpt from Joint System Impact Study in Case No. 17-5024-PET

Exhibit CS-BW-9

System Impact Study

System Impact Study
For
Bennington Solar, LLC
Russett Drive
Bennington, VT 05201

2,000kW Three-Phase, Inverter Based Photovoltaic
Generation Assessed in Combination with the Queued
2,000kW Three-Phase, Inverter Based Photovoltaic Facility
know as Apple Hill Solar

Interconnection to Green Mountain Power's 12.47kV System



Executive Summary

ControlPoint Technologies (CPT) working with Green Mountain Power (the “Company”) has completed the System Impact Study, for the interconnection of the Bennington Solar, LLC and the Apple Hill Solar, LLC, (“Interconnecting Customer” or “IC”), 2 - 2,000kW (AC) PV Facility, (“the Facility”), to its 12.47kV distribution system, (“the Project”), and presents the conclusions of the study herein. The Bennington Solar, LLC portion of the Project is also known as Chelsea Solar. The cost estimates listed in the report are exclusive to the Chelsea Solar project but some system upgrades that are jointly required for the Apple Hill project are discussed. If the Apple Hill project drops from the interconnection queue; the Chelsea Solar project will be responsible for some of the system upgrades currently assigned to the Apple Hill project. Any further design changes made by the Interconnection Customer post IA without the Company’s and CPT’s knowledge, review, and/or approval will render the findings of this report null and void.

The Facilities will be located off Line 2136, Willow Road, Bennington, VT 05201. The two projects are located on adjacent properties and will both be connecting to the MS50 circuit on Line 2136. Both projects are using similar components. For these reasons, this system impact study will combine the individual and collective impacts to Green Mountain Power’s electric power system. This area is served via the Company’s 12.47kV distribution circuit, MS50, Line 2136. The MS50 originates from the Mill Street Substation.

The purpose of this study was to:

- Conduct, as applicable, steady-state, stability, short circuit, and extreme contingency analyses and perform assessments of reliability performance of the Company’s Electric Power System (“EPS”) within the area of interconnection, with and without the proposed Facility, in accordance with applicable reliability standards and study practices, and in compliance with the applicable codes, standards, and guidelines referenced in Vermont Public Service Board’s Rule 5.500 to determine the incremental impact and any potential adverse impacts associated with the interconnection of the Facility to the EPS.
- Determine any system modifications required.
- Evaluate the existing distribution protection scheme to ensure that there is no degradation of reliability to Green Mountain Power’s customers.
- Provide a report describing the results of the System Impact Study.

The study determined what modifications will be required to be made to the Company’s EPS and operating procedures before the Project can proceed to interconnect:

The existing circuit topology does not support interconnection of the facilities. As detailed in

Final	Bennington Solar, LLC 2,000kW PV, MS50 Circuit L2136 Bennington, VT 05201	Page 6 of 63
Version 1.2		10/14/2014

this report, utilizing existing GMP facilities from the substation to the initial POI's was determined not to be the best path. Instead, constructing a primary voltage three phase connecting line along Hewitt Drive (Configuration 4 described in Section 3.0) is being pursued. Three phase line extensions will be required for the facilities to interconnect. Starting at the Mill St. substation and working toward the Project, the required EPS modifications include, but are not limited to, the following:

- Three phase conductor upgrades were modeled between MS50_L12_P33 to MS50_LPARK_P42. This was previously identified as a capital budget project by GMP. *This work will be performed at GMP's cost.*
- Reconductoring 810' from Line Park Pole 47 to Pole 56 will be required. This will be the Project's cost responsibility.
- A three-phase line extension will be required to connect the PV Facilities. Approximately 1,900 feet of 3-phase 477 AL was modeled from pole MS50_LPARK_P62 to Willow Road, pole MS50_L2136_P21 via Hewitt Dr. The 1/0 AL modeled for the Apple Hill Interconnection is insufficient for the combined project outputs. The cost of increased conductor size will be the Project's cost responsibility.
- A three phase line extension of approximately 3,000 feet will be required from the Apple Hill POI to the Bennington Solar PCC. This will be the Project's cost responsibility.
- At the Point Of Interconnection, one recloser, one set of disconnect switches and one primary metering rack will be required. This will be the Project's cost responsibility.

If the recommended line modifications are made, the project should not have a negative impact on system voltage, under normal operating conditions and rapid cloud movement. For the most extreme case, the maximum voltage change for the facility's on/off switching is 3.83% which is above the Green Mountain Power threshold of 2.57%. This is with the inverters modeled at lagging 99% power factor (sourcing reactive power). It is believed that a leading or unity inverter power factor setting might help to mitigate the magnitude of voltage changes due to rapid cloud movement should they become a source of power quality issues. Per the Advanced Energy AE 500NX User Manual, the inverters have a real power output rating of 500 kW and an apparent power output rating of 526 kVA. As such, there should be no de-rating of the real power output necessary when operating at 99% power factor leading (absorbing reactive power).

The study indicates that the proposed design is effectively grounded when connected to the area EPS. The simulations run did not indicate excessive over-voltages during line-to-ground faults. The study indicates that the project does not create any thermal issues to the area EPS.

If an event occurs with a recorded over-voltage at the PCC exceeding limitations and/or any reported damage of customer equipment, The Company reserves the right to disconnect the Project from the EPS. The developer will be responsible for all associated claims and for mitigation to prevent re-occurrence. In this instance, The Company could require a Direct Transfer Trip (DTT) scheme from all upstream feeder sectionalizing devices to the PCC

APPENDIX C

Affidavit of Martha Staskus, 3/5/2021

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-0401-NMP

Application of Putney Green AcresSolar LLC,)
pursuant to 30 V.S.A. §§ 248 and 8010, for a)
certificate of public good to install and operate a)
500 kW (AC) solar electric generation facility to be)
located in Putney, Vermont.)

Case No. 21-0651-NMP

Application of Putney Blood Farm 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) net-metered solar)
electric generation facility in Putney, Vermont)

AFFIDAVIT OF MARTHA STASKUS

1. My name is Martha Staskus. I have personal knowledge of the facts contained in this Affidavit and the exhibits filed with it. The facts and exhibits are true and accurate to the best of my knowledge and belief.

2. I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I may be subject to sanctions by the Commission pursuant to 30 V.S.A. § 30.

3. The facts provided in this Affidavit respond to the Public Utility Commission's February 9, 2021 order for additional information about the development of the Putney Green Acres Solar Project (Case No. 21-0401-NMP) and the Putney Blood Farm Solar Project (Case No. 21-0651-NMP). Pages 2 through 5 of Prefiled Testimony of Martha Staskus filed in Case 21-0651-NMP provides much of the information requested in the February 9, 2021 order and it is hereby incorporated into my Affidavit by reference.

4. A solar panel converts the sun's energy into electricity. A single solar panel that when interconnected to a Vermont utility's electric grid is an electric generation facility and requires a certificate of public good from the Public Utility Commission.

This document has been electronically filed in ePUC.

5. A “solar array” is a grouping of solar panels connected electrically by wiring and combined electrically to be interconnected to an electrical grid. A solar array can be mounted on a roof or it can be mounted on the ground. A ground-mounted solar array can be fixed, or it can track the sun. A fixed ground-mounted solar array is typically laid out in rows of racking that hold the solar panels at a fixed angle to the sun. A solar array is an independent technical facility by design.

6. The Putney Green Acres Solar Project and the Putney Blood Farm Solar Project are two independent technical facilities that will generate renewable energy. The projects are two separate solar arrays proposed for two separate lots of land that are situated on either side of a four-lane interstate highway, I-91, and that do not share any infrastructure or other common facilities. See Exhibit PGAS-MS-2 filed in Case No. 21-0401-NMP, Exhibit PBFS-MS-2 filed in Case No. 21-0651-NMP, and Exhibit PGAS-MS-11 filed with this Affidavit (combined site plan).

7. The host landowner for the Putney Green Acres Solar Project and the Putney Blood Farm Solar Project is Green Acres of Vermont, Inc. This information is included in paragraph 2 of each Petition. Green Acres of Vermont is the former Putney Paper Company.

8. In March 2020, the host landowner’s parent company, APC Paper Company, approached Norwich Technologies about the possibility of selling “[t]he landfill property and a smaller parcel formerly known as the [B]lood [F]arm.” See Exhibit PGAS-MS-12 filed with this Affidavit.

9. In June 2020, Sunny Acres, LLC, a company managed by Norwich Technologies, and the host landowner executed a purchase and sales agreement for the host properties described in the agreement as: “Property address: River Road, Putney, VT 05346 Tax Map Parcels # 080260.1 and #120102 SPAN NO. 504-158-10737 and 504-158-10738. Being +/- 2 acres of vacant land on the west side of I-91 and +/- 20 acres on the east side of I-91.”

10. In September 2020, Putney Green Acres Solar, LLC executed an Option to Lease from Sunny Acres LLC 20± acres of the former Putney Paper landfill property on the east side of Interstate 91 for the purpose of siting a solar array (the “Landfill Site”).

11. In September 2020, Putney Blood Farm Solar, LLC executed an Option to Lease from Sunny Acres, LLC 2± acres of the former Blood Farm property on the west side of Interstate 91 for the purpose of siting a solar array (the “Blood Farm Site”).

12. On July 31, 2020, conversations were initiated with an environmental consulting firm to assist in submitting the Landfill Site and Blood Farm Site into the state’s BRELLA program and to conduct a Phase I ESA on the Landfill Site.

13. On August 31, 2020, I shared the Putney Green Acres Solar preliminary site plan with the Vermont Agency of Natural Resources Department of Environmental Conservation (“VTDEC”) Sites Management Section Hazardous Waste Program.

14. On September 1, 2020, staff from the VTDEC Brownfields Response Program & Sites Management Section and Waste Management and Prevention Division, the Phase I ESA brownfields consultant, and myself began COVID conference calls to discuss the two former Putney Paper Company lots, the different existing conditions on the Landfill Site and the Blood Farm Site, and the separate environmental reviews that would be needed for each site.

15. The Landfill Site is identified as SMS #1994-1606 and has been under the jurisdiction of the VTDEC Solid Waste Management Program, Waste Management & Prevention Division for the last twenty (20) plus years.

16. On September 22, 2020, Arrowwood Environmental was contracted to conduct natural resource inventories on the Landfill Site and Blood Farm Site.

17. On December 3, 2020, the VTDEC Waste Management and Prevention Division, Solid Waste Management Program issued a sanitary landfill certification letter for the Landfill Site.

18. On January 12, 2021, the Blood Farm Site was issued its own identification number, SMS#2020-4993, by VTDEC Sites Management Section Hazardous Waste Program. It also issued a Brownfields Certification letter and a BRELLA program approval letter.

19. On January 29, 2021, the VTDEC Sites Management Section Hazardous Waste Program issued a BRELLA approval letter for the Landfill Site.

20. On December 23, 2020, GMP issued the Feasibility Study results for the Putney Green Acres Solar Project. The Study reports that the Applicant must adjust its inverter settings, pay for the upgrade of approximately 1 mile of existing single-phase line to three phases and the construction of a line extension with PCC recloser. The utility needs to set the substation regulators to co-generation mode. See Exhibit PGAS-MS-7 filed with the Petition in Case No. 21-0401-NMP

21. On February 5, 2021, GMP issued the Putney Blood Farm Solar Project’s Feasibility Study dated February 4, 2021. GMP’s transmittal email stated that the Project “will require a line extension, transformer, inverter requirement and settings all detailed in the conclusion, as well subject to the TGFOV Tariff.” The Study also noted that “[t]here are several upgrades not the responsibility of the project to be done prior to interconnection.” See Exhibit PBFS-MS-10 filed with this Affidavit.

22. On August 18, 2020, drafting began on the preliminary site plans for the Putney Green Acres Solar Project and Putney Blood Farm Solar Project. The preliminary site plan for the Landfill Site was completed on August 21, 2020. That plan was sent with the 45-day advance notice for the Putney Green Acres Solar Project on December 8, 2020.

23. On August 20, 2020, the preliminary site plan for the Blood Farm Site was completed and included in the 45-day advance notice sent on December 8, 2020.

24. On January 13, 2021, the site plan, EPSC plans and elevations were completed by Krebs & Lansing for the Landfill Site.

25. On January 27, 2021 the site plan, EPSC plans and elevations were completed by Krebs & Lansing for the Blood Farm Site.

26. On September 23, 2020, I reached out to the Putney Town Manager, Putney Planning Commission Chair and Putney Select Board Chair introducing the solar projects planned for the Landfill Site and the Blood Farm Site. On October 6, 2020, I introduced the projects to the Planning Commission.

27. On December 22, 2020, I spoke with the Windham Regional Commission Senior Planner to discuss a project under development in the Town of Westminster. The Senior Planner asked me about the two projects in Putney she had seen the 45-day notices for and indicated that she would be adding those projects to the January 5, 2021 Windham Regional Commission ("WRC") Project Review Committee meeting. The WRC was made aware of the Putney projects planned for the Landfill Site and the Blood Farm Site following discussion of the Westminster project, but the Commission did not review or discuss the two Putney projects.

28. I explained in my prefiled testimony in Case No. 21-0651-NMP that I do not expect construction of the two solar arrays will be coordinated because the BRELLA environmental reviews for the Landfill Site and Blood Farm are being managed separately by the VTDEC Waste Management and Prevention Division and the Blood Farm Site requires an archeological survey prior to construction. See Prefiled Testimony of Martha Staskus at 4-5 in Case No. 21-0651-NMP.



Martha Staskus