

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 21-0401-NMP

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Application of Putney Green Acres, 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	
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Case No. 21-0651-NMP

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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	
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Order entered: 07/12/2021

**ORDER DENYING REQUEST FOR COMMISSION EXPERT AND NOTICE OF ORAL ARGUMENT**

**I. INTRODUCTION**

On January 27, 2021, in Case No. 21-0401-NMP, Putney Green Acres, LLC filed an application with the Vermont Public Utility Commission (“Commission”) for a certificate of public good (“CPG”) to construct and operate a 500-kW solar net-metering system in Putney, Vermont (the proposed “Green Acres” facility). The proposed Green Acres facility would be located on 2.4 acres south of I-91 that are accessed from River Road South. The application includes the prefiled testimony of Martha Staskus, the chief development officer of Norwich Technologies, Inc. (“Norwich”), in which Ms. Staskus testified that Norwich created Putney Green Acres Solar, LLC as a limited liability corporation to own and operate the proposed Green Acres facility.

On February 1, 2021, in Case No. 21-0651-NMP, Putney Blood Farm Solar, LLC filed an application with the Commission for a CPG to construct and operate a 150-kW solar net-metering system in Putney, Vermont (the proposed “Blood Farm” facility). The proposed Blood Farm facility would be located north of I-91 on a 0.7-acre site accessed from River Road South. Ms. Staskus also filed prefiled testimony in Case No. 21-0651-NMP, similarly stating that Norwich

created Putney Blood Farm Solar, LLC as a limited liability corporation to own and operate the proposed Blood Farm facility.

On February 9, 2021, the hearing officer issued an order directing Norwich to provide supplemental information, in the form of testimony or affidavit, addressing whether the proposed Green Acres facility and the proposed Blood Farm facility constitute a “single plant” pursuant to 30 V.S.A. § 8002(18).

In response, on March 5, 2021, Norwich filed an affidavit from Ms. Staskus and related exhibits.

On May 26, 2021, the hearing officer assigned to these cases issued a joint proposal for decision recommending that the Commission determine that the proposed Green Acres facility and the proposed Blood Farm facility constitute a single plant, pursuant to 30 V.S.A. § 8002(18).

On June 11, 2021, Norwich filed comments (“Norwich Comments”) in response to the proposal for decision. Norwich recommends that the Commission: (1) engage an electrical engineering expert witness pursuant to 30 V.S.A. § 20(a); (2) provide Norwich with the opportunity for an evidentiary hearing on the single-plant issue; and (3) reject the proposal for decision and issue certificates of public good for both the Green Acres and Blood Farm facilities.

No other parties filed comments.

In today’s order, the Commission responds by denying Norwich’s request that the Commission hire an electrical engineering expert witness and by providing Norwich the opportunity to make a 45-minute oral argument before the Commission to take place at 9:30 A.M. on Thursday, July 22, 2021, by videoconference. Norwich will have an opportunity to present the following at oral argument:

1. a factual proffer of the proposed supplemental evidence Norwich intends to offer from an expert;
2. a justification for why the evidentiary record should be reopened; in particular, Norwich should be prepared to address (a) the impact this additional evidence would have on Norwich’s legal argument, (b) the legal justification for reopening the record at this point in the proceeding, and (c) why this evidence was not offered earlier in the proceeding;

3. argument addressing why a request for a hearing was not made earlier in the proceeding and the legal basis for granting a hearing after a proposal for decision has been circulated; and
4. factual or legal challenges to the hearing officer's recommendation in the proposal for decision.

Having determined to defer a decision regarding the single-plant issue, we do not now address Norwich's arguments on the merits of the proposal for decision. We will address Norwich's arguments after the oral argument.

## **II. DISCUSSION**

### **A. Determination Not to Hire an Electrical Engineer**

Norwich requests that:

[T]he Commission should use its authority under 30 V.S.A. §§ 20(a)(1) and 21(a) to hire an electrical engineer familiar with Vermont's electrical 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'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.<sup>1</sup>

To assist the Commission in its responsibilities, 30 V.S.A. § 19 authorizes the Commission to employ "engineers, accountants, legal counsel, and such number of clerks, stenographers, experts, and temporary employees as it deems necessary in the performance of its duties, and in the investigation of matters within its jurisdiction." In addition, 30 V.S.A. § 20 authorizes the Commission to "retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services" to assist the Commission in certain proceedings. The Commission has the authority to allocate the costs in retaining additional personnel in particular proceedings to Norwich as provided in 30 V.S.A. § 21. The Commission may retain consultants both as expert witnesses, as requested by Norwich, and as non-testifying expert advisors to perform the role of expert staff in particular proceedings. The

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<sup>1</sup> Norwich Comments at 5.

contractual engagement of an expert is at the discretion of the Commission and is not subject to review.<sup>2</sup>

Pursuant to 30 V.S.A. § 20(a)(1), the Commission and the Department each are authorized to retain experts to assist the Commission or the Department in certain proceedings. In previous instances when a party has requested that the Commission hire its own advisors under Section 20, the Commission has focused on “whether the parties and the record they present (or are expected to present) provide adequate information for our consideration and resolution of the issues presented by a petitioner before us.”<sup>3</sup> Norwich asserts that an expert is needed “to assist the Hearing Officer’s inquiry regarding the technical aspect of the single plant criteria.”<sup>4</sup>

We deny Norwich’s request that we hire an electrical engineering expert. We are not persuaded that the Commission should independently act to supplement the information already filed by Norwich. The ultimate burden of persuasion remains with Norwich. We therefore invite Norwich to take this opportunity to make oral argument as to whether the evidentiary record should be reopened to address evidence, including expert evidence, if any, that may be relevant to the single-plant issue.

### **B. Notice of Oral Argument**

We are not persuaded that Norwich should have an additional opportunity to supplement the evidentiary record. However, we will provide Norwich with an opportunity for oral argument to address whether the evidentiary record should be reopened to allow Norwich to present additional information on the single-plant issue as well as to respond to the recommendations of the hearing officer in his May 26, 2021, proposal for decision. An oral argument is not an evidentiary hearing. The oral argument will be limited to the evidence in the record and any

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<sup>2</sup> See e.g. *Joint Petition of NorthStar Decommissioning Holdings, LLC, NorthStar Nuclear Decommissioning Company, LLC, NorthStar Group Services, Inc., LVI Parent Corporation, NorthStar Group Holdings, LLC, Entergy Nuclear Vermont Investment Company, LLC and Entergy Nuclear Operations, Inc., and any other necessary affiliated entities to transfer ownership of Entergy Nuclear Vermont Yankee, LLC, and for certain ancillary approvals, pursuant to 30 V.S.A. §§ 107, 231, and 232*; Docket 8880, Order of 12/1/17, at 3.

<sup>3</sup> *Petition of Dairy Air Wind, LLC, for a certificate of public good, pursuant to 30 V.S.A. s 248, for the installation of a single turbine, 2.2 MW wind-powered electric generation facility in Holland, Vermont*; Docket 8887, Order of 4/23/18, at 3 (citing *Petition of Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.*, Docket 6812, Order of 3/15/04 at 6-7); see also *Petition of Chelsea Solar LLC for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing the installation and operation of a 2.0 MW solar electric generation facility at 500 Apple Hill Road, Bennington, Vermont*; Docket 8302, Order of 6/9/15, at 2-3 (Commission declined to hire expert witnesses at party’s request because adequate information was capable of being provided by the parties).

<sup>4</sup> Norwich Comments at 4-5.

additional technical information proffered by Norwich that may serve to distinguish the facilities in these cases from those adjudicated in the *Willow Road* case. The proffered information will not, however, be entered into the evidentiary record, which is closed.

### **III. CONCLUSION AND ORDER**

We emphasize that this is not a ruling on the merits of Norwich's position regarding the single-plant issue. We will issue our ruling on that question when we issue our final decision in this matter, which will occur after the oral argument.

Norwich's request that the Commission hire an electrical engineering expert witness is denied.

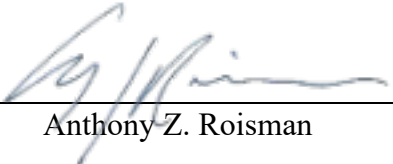
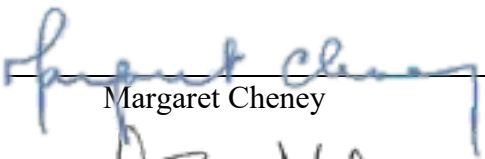
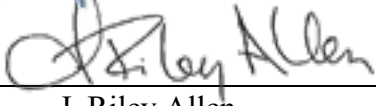
The Commission will hold an oral argument, pursuant to 30 V.S.A. Sections §§ 8, 10, and 209 on **Thursday, July 22, 2021, commencing at 9:30 A.M.**, via Go To Meeting videoconference.<sup>5</sup> The oral argument will address whether the evidentiary record should be reopened to allow Norwich an additional opportunity to respond to single-plant issue as well as the recommendations of the hearing officer in his May 26, 2021, proposal for decision. Norwich will have 45 minutes to argue. The other parties have not commented on the single-plant issue. If the other parties wish to actively participate in the oral argument, they may share an additional 45-minute period for their arguments.

Participants and members of the public may access the oral argument online at <https://global.gotomeeting.com/join/418420301> or call in by telephone using the following information: phone number: +1 (571) 317-3116; access code: 418-420-301. Participants may wish to download the GoToMeeting software application in advance of the oral argument at <https://global.gotomeeting.com/install/418420301>. Guidance on how to join the meeting and system requirements may be found at <https://www.gotomeeting.com//online-meeting-support>.

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<sup>5</sup> Pursuant to 30 V.S.A. §§20 and 21, Putney Blood Farm Solar LLC and Putney Green Acres Solar LLC will be responsible for court reporter costs incurred by the Commission as a result of this oral argument. Invoices for these costs will be mailed to the attorney(s) of record or the official representative(s) for Putney Blood Farm Solar LLC and Putney Green Acres Solar LLC.

Dated at Montpelier, Vermont, this 12th day of July, 2021.

 _____ Anthony Z. Roisman	)	PUBLIC UTILITY COMMISSION OF VERMONT
 _____ Margaret Cheney	)	
 _____ J. Riley Allen	)	

OFFICE OF THE CLERK

Filed: July 12, 2021

Attest:   
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Deputy Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov))*

PUC Case Nos. 21-0401-NMP & 21-0651-NMP – JOINT SERVICE LIST

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