

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 21-\_\_\_\_-NMP

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Petition of SMS Solar Array, LLC for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, for a 150 kW group net-metered solar electric power system in St. Albans, Vermont	
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Order entered:

**FINAL ORDER GRANTING NET-METERING CERTIFICATE OF PUBLIC GOOD**

In this Order, the Vermont Public Utility Commission (“Commission”) adopts the following proposal for decision.

**PROPOSAL FOR DECISION**

**I. INTRODUCTION**

This case involves a petition (“Petition”) filed by SMS Solar Array, LLC (“Petitioner”) with the Commission for a certificate of public good (“CPG”) pursuant to 30 V.S.A. §§ 248 and 8010, to install and operate a 150 kW photovoltaic group net-metering system in St. Albans, Vermont (the “Project”).

Based on the findings below and subject to conditions, I recommend that the Commission conclude that the Project complies with the requirements of Commission Rule 5.100, the Petition meets the applicable criteria of 30 V.S.A. §§ 248 and 8010, and the Project will promote the general good of the State of Vermont.

**II. PROCEDURAL HISTORY**

On August 18, 2021, the Petitioner filed a petition for the Project with the Commission.

### **III. SUMMARY OF PUBLIC COMMENTS**

No comments from the public were received.

### **IV. CONDITIONAL WAIVER OF REVIEW UNDER CERTAIN CRITERIA FOR NET METERING PROJECTS**

Pursuant to 30 V.S.A. § 8010 and Commission Rule 5.111, the Commission has conditionally waived review of the following criteria, and I recommend that the Commission find that no party presented any testimony that warrants rescinding any part of that waiver in this proceeding:

- 30 V.S.A. § 248(b)(2) (need);
- 30 V.S.A. § 248(b)(4) (economic benefit);
- 30 V.S.A. § 248(b)(6) (integrated plan);
- 30 V.S.A. § 248(b)(7) (electric energy plan);
- 30 V.S.A. § 248(b)(9) (waste-to-energy facilities); and
- 30 V.S.A. § 248(b)(10) (transmission facilities).

Therefore, only the criteria applicable to the Project under Commission Rule 5.111 are addressed in this Order.

### **V. FINDINGS**

Pursuant to 30 V.S.A. § 8(c), and based on the record evidence before me, I present the following proposed findings of fact to the Commission.

#### **Description of the Project**

1. The Project consists of a photovoltaic electric system with a total capacity of approximately 150 kW AC. William F. Veve, Petitioner (“Veve”) pf. at 2.
2. The Project will be sited at 428 S. Main Street in St. Albans, Vermont, occupying about 0.88 acres of the larger 4-acre parcel. The parcel has been subdivided into three lots as part of a separate commercial development; the Project site is on Lot 3. Veve pf. at 2.
3. The Project site was historically used for disposing of fill, which has resulted in a level plateau where the Project will be installed. The site is otherwise surrounded by natural

vegetation on all sides with a railroad line extending along the western boundary. Veve pf. at 2, 15; exh. PET-IAJ.2.

4. The Project will include approximately 476 solar modules mounted on a racking system arranged in rows running from east to west. The racks will be set on steel foundations that will be pile driven, tension-wire fastened, or screwed into the ground. Veve pf. at 3.

5. The Project will use microinverters with a combined capacity of 150 kW to convert the DC solar power to AC power. A pad-mounted transformer at the southeastern end of the site will step up the inverter output to the appropriate voltage for interconnection with the distribution system. Veve pf. 3.

6. Power cables within the Project area will be buried underground and extend to a combiner box at a proposed equipment room along the eastern end of the Project. A single electrical line will extend to the transformer and continue below ground to connect with the existing electrical distribution lines along S. Main Street (Route 7). Veve pf. at 3.

7. The array will either be surrounded by a perimeter fence at least seven feet in height or will use a protective screen over panel circuitry in accordance with electrical code requirements. Veve pf. at 3.

8. The Project will be accessed from S. Main Street via an existing access road that serves the subdivision. No access improvements are expected. Veve pf. at 3.

9. Construction of the Project is expected to last two to three months. Construction activities will be limited to the hours between 7:00 A.M. and 7:00 P.M. Monday through Friday and between 8:00 A.M. and 5:00 P.M. on Saturdays. No construction activities will occur on Sundays or state or federal holidays. Veve pf. at 4.

10. Prior to installation, minimal site-preparation activities will be conducted, including removal of overgrown, sporadic site vegetation and smoothing out the site with minimal grading as needed. Veve pf. at 4.

11. The Project will be removed once it is no longer in service, and the site will be restored to its pre-construction condition to the greatest extent practicable. Veve pf. at 5.

12. The Project will produce an estimated maximum sound level at the nearest residence of 18.2 dBA during daylight and nighttime hours. Ian A. Jewkes, Petitioner (“Jewkes”) pf. at 7; exh. PET-IAJ-3.

### **Applicable Rate Adjusters**

13. The Project will be located on a preferred site, as defined in Commission Rule 5.103, because the site has been designated as preferred by joint letters from the Town and Regional Planning Commission. Veve pf. at 5; exh. PET-WFV-2.

14. The Petitioner has elected to transfer the Project's renewable energy credits ("RECs") to GMP. Veve pf. at 5.

### **Discussion**

Pursuant to PUC Rule 5.127(C)(2) and the Commission's *Biennial Update Order* dated November 12, 2020, because the Project is 150 kW and is located on a preferred site (i.e., joint designation), a siting adjuster of zero cents per kilowatt hour shall apply to all energy generated by the Project.

Because Petitioner has elected to transfer the ownership of the RECs generated by the net-metering system, the Project is will receive a REC adjuster of zero cents per kilowatt hour pursuant to PUC Rule 5.127(B) and the Commission's *Biennial Update Order* dated November 12, 2020.

### **Orderly Development of the Region**

[30 V.S.A. § 248(b)(1)]

15. The Project will not unduly interfere with the orderly development of the region, with due consideration having been given to the recommendations of the municipal and regional planning commissions and legislative bodies, the land conservation measures contained in the town and regional plans, and with substantial deference being given to the regional plan. This finding is supported by findings 16 through 19, below.

16. There are no applicable land conservation measures contained in the St. Albans Town Plan ("Town Plan") or the Plan for the Northwest Region ("Regional Plan"). Veve pf. at 7; exhs. PET-WFV-4, PET-WFV-5.

17. The Project will further the stated goals of the Town and Regional Plans to encourage development of renewable energy resources while minimizing impacts to the natural and built environment. Veve pf. at 7.

18. The Project is consistent with development recommendations in the Town Plan for exploring infill development, adaptive re-use, and re-development of vacant land as the Project will make productive use of an otherwise vacant piece of property that could not be developed or used for other purposes due to septic limitations associated with the subdivision. Veve pf. at 7-8.

19. The Town of St. Albans and the Northwest Regional Planning Commission have designated the Project location as a preferred site for solar development. Veve pf. at 8-7; exh. PET-WFV-2.

#### **Municipal-Screening Requirements**

[30 V.S.A. § 248(b)(1)(B)]

20. The Town of St. Albans has not adopted screening requirements for ground-mounted solar electric generation facilities pursuant to either 24 V.S.A. § 4414(15) or 24 V.S.A. § 2291(28) with which the Project would have to comply. Veve pf. at 10.

#### **Impact on System Stability and Reliability**

[30 V.S.A. § 248(b)(3)]

21. The Project will not have an undue adverse effect on system stability and reliability. This finding is supported by findings 22 through 24, below.

22. GMP advised that the Project can interconnect subject to compliance with ISO New England's Inverter Source Requirement Document and installation of a 600' underground line extension and related equipment to accommodate interconnection. Veve pf. at 10.

23. Petitioner understands that GMP will own the underground line extension from its existing distribution lines to the pad-mounted transformer at the Project site. Veve pf. at 3.

24. The Project will comply with the applicable requirements of the National Electric Code ("NEC") and the National Electrical Safety Code ("NESC"). Veve pf. at 11.

**Aesthetics, Historic Sites, Air and Water Purity,  
the Natural Environment**

[30 V.S.A. § 248(b)(5)]

25. The Project will not have an undue adverse effect on aesthetics, historic sites, air and water purity, or the natural environment. This finding is supported by findings 26 through 71, below.

**Outstanding Resource Waters**

[10 V.S.A. § 1424a(d); 30 V.S.A. § 248(b)(8)]

26. The Project will not result in an undue adverse effect on any Outstanding Resource Water as defined by 10 V.S.A. § 1424a(d) because there are no outstanding water resources at or near the Project site. Joe H. Bartlett, Petitioner (“Bartlett”) pf. at 3.

**Headwaters**

[10 V.S.A. § 6086(a)(1)(A)]

27. The Project will not have an undue adverse impact on headwaters because the Project is not located in a headwater. Bartlett pf. at 3-4.

**Waste Disposal**

[10 V.S.A. § 6086(a)(1)(B)]

28. The Project will meet applicable health and DEC regulations regarding the disposal of wastes and will not involve the injection of waste materials into groundwater or wells. This finding is supported by findings 29 and 30, below.

29. The Project will not generate sanitary waste or stormwater runoff from new impervious surfaces that would require treatment pursuant to a DEC permit. Jewkes pf. at 3.

30. All trash and recycling generated as part of construction will be disposed of at appropriate transfer stations and recycling centers. Jewkes pf. at 3.

**Water Conservation, Sufficiency of Water, and Burden on Existing Water Supply**

[10 V.S.A. § 6086(a)(1)(C), (a)(2), &amp; (a)(3)]

31. The Project will not have adverse impacts on water conservation, or sufficiency of water, or place a burden on existing water supply because the Project will not require regular water use or result in water disposal. Water use during construction will be limited to dust control measures, and during the operational phase to the potential need to occasionally clean the solar panels. Water for these purposes will be brought from off-site via small maintenance vehicles. Veve pf. at 13.

**Floodways**

[10 V.S.A. § 6086(a)(1)(D)]

32. The Project will not result in an undue adverse impact to floodways. This finding is supported by findings 33 and 34, below.

33. The Project is located in the Rugg Brook watershed, which does not have any mapped FEMA floodways or floodway fringe. Bartlett pf. at 4.

34. The closest river corridor is associated with Rugg Brook, approximately 3,500 feet to the west of the Project. Bartlett pf. at 4.

**Streams**

[10 V.S.A. § 6086(a)(1)(E)]

35. The Project will not result in an undue adverse impact to any streams because there are no streams within the Project area. Bartlett pf. at 4.

**Shorelines**

[10 V.S.A. § 6086(a)(1)(F)]

36. The Project will not have an undue adverse impact on shorelines because the Project is not located on or near a shoreline. Bartlett pf. at 4.

**Wetlands**

[10 V.S.A. § 6086(a)(1)(G)]

37. The Project will not have an undue adverse effect on wetlands. This finding is supported by findings 38 through 41, below.

38. While there are no wetlands on the Project parcel, a wetland area was identified on a parcel to the north. Bartlett pf. at 5.

39. The wetland area to the north is primarily in agricultural use and thus is not subject to a 50-foot wetland buffer under the Vermont Wetland Rules. Bartlett pf. at 5.

40. The western portion of the wetland extends into a forested area that is not used for agricultural purposes and therefore is subject to a 50-foot buffer. Bartlett pf. at 5.

41. The Project design has been refined to remain outside the wetland and associated buffer as shown on the Project site plans. Bartlett pf. at 5; exh. PET-IAJ-2.

**Air Pollution and Greenhouse Gas Impacts**

[10 V.S.A. § 248(b)(5); 10 V.S.A. § 6086(a)(1)]

42. The Project will not result in undue air pollution or greenhouse gas emissions. This finding is supported by findings 43 and 44, below.

43. Project construction will result in the temporary emission of minimal levels of air pollutants. Dust generated by construction equipment will be suppressed in accordance with the DEC *Standards and Specifications for Erosion Prevention and Sediment Control*. Veve pf. at 12.

44. The operation of the Project will result in infrequent and minimal emissions associated with maintenance operations (e.g., periodic mowing) because no combustion or fuel is required for the operation of the solar panels. Veve pf. at 12.

**Soil Erosion**

[10 V.S.A. 6086(a)(4)]

45. The Project will not cause undue soil erosion or reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results. This finding is supported by findings 46 through 50, below.

46. The total soil disturbance during Project construction will be approximately 0.93 acres. While this disturbance is below the one-acre trigger for requiring a Construction General Stormwater Permit, Petitioner plans on seeking a construction stormwater permit due to the potential for contemporaneous earth disturbance on other lots in the subdivision. Jewkes pf. at 4.

47. An Operational Stormwater Permit will not be required for the Project because the Project's proposed 0.008 acres of impervious surface from the equipment pads and support posts, when combined with the approximately 0.43 acres of existing impervious surface at the larger parcel, is below the 1-acre permitting threshold. Jewkes pf. at 5.

48. Appropriate erosion control measures will be implemented following the *Vermont Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2020). Jewkes pf. at 5.

49. The Project will be constructed in accordance with *Vermont Standards and Specifications for Erosion Prevention and Sediment Control* (2020). Jewkes pf. at 5.

50. These sediment control measures will help prevent erosion and will treat stormwater runoff before it reaches receiving waters, thus protecting water quality. Jewkes pf. at 5.

#### **Transportation**

[10 V.S.A. § 6086(a)(5)]

51. The Project will not cause unreasonable congestion or unsafe conditions with respect to transportation systems during construction. There will be no long-term impacts from traffic associated with the Project. There will be short-term, periodic traffic impacts due to deliveries of Project equipment to the site during construction. These deliveries will use public roads with vehicles that are commonly used on public roads. All deliveries will be conducted in accordance with applicable permits and requirements. Veve pf. at 13.

#### **Educational Services**

[10 V.S.A. § 6086(a)(6)]

52. The Project will not place an unreasonable burden on the provision of educational services as the Project will not result in additional students in the community. Veve pf. at 14.

**Municipal Services**

[10 V.S.A. § 6086(a)(7)]

53. The Project will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services because the Project will not require or affect local services. Veve pf. at 14.

**Aesthetics, Historic Sites, and Rare and Irreplaceable Natural Areas**

[10 V.S.A. § 6086(a)(8)]

54. The Project will not have an undue adverse impact on aesthetics, historic sites, or rare and irreplaceable natural areas. This finding is supported by findings 55 through 70, below.

**Aesthetics**

55. The Project will not be out of character with its surroundings considering that it is bordered by an active railroad line to the west and will be surrounded by existing vegetation on all sides. Veve pf. at 15; exp. PET-WFV-5.

56. The Project plans do not propose the clearing or removal of the existing vegetation that surrounds the site, which will assist in mitigating visual impacts from residential properties to the north and east as well as travelers on nearby public roads. Veve pf. at 15-16.

57. The site is not classified as scenic, nor is the site part of a scenic viewshed. Veve pf. at 16.

58. The site has been designated as a preferred site for solar development by local and regional officials. Exh. PET-WFV-2.

59. Given the industrial nature of the site, the compact Project design, and existing vegetation that obscures visibility, the Project will not result in an adverse aesthetic impact. Veve pf. at 16; exh. PET-WFV-5; exh. PET-WFV-2.

**Historic Sites**

60. The Project will not be visible from any historically significant buildings or structures, nor will it result in an undue adverse impact on archeological resources. Veve pf. at 17.

61. The Vermont Division for Historic Preservation determined that the Project will have no undue adverse effect on any historic sites. Veve pf. at 17; exh. PET-WFV-6.

Rare and Irreplaceable Natural Areas

62. There are no rare or irreplaceable natural areas within the Project area. Bartlett pf. at 5-6.

**Necessary Wildlife Habitat and Endangered Species**

[10 V.S.A. § 6086(a)(8)(A)]

63. The Project will not have an undue adverse effect on necessary wildlife habitat or threatened and endangered species. This finding is supported by findings 64 through 67 below.

64. There are no mapped deer wintering area habitats (“DWA”) in the Project area. The closest DWA is approximately two miles to the south of the Project. The Project will have no adverse impact on DWA resources. Bartlett pf. at 6.

65. The Project site does not contain any black bear or grassland bird habitat. Bartlett pf. at 6.

66. There are no records or occurrences of rare, threatened, or endangered (“RTE”) plant species within a one-mile radius of the Project site, and a plant inventory taken of the Project site verified the absence of RTE plant species. Bartlett pf. at 6-7; exh. PET-JBH-2.

67. The proposed Project will not impact any protected bat species as it does not include any cutting or trimming of trees. Bartlett pf. at 6.

**Primary Agricultural Soils**

[10 V.S.A. § 6086(a)(9)(B)]

68. The Project will not have an undue adverse impact on primary agricultural soils. This finding is supported by findings 69 and 70, below.

69. Mapping data indicates that the Project site contains 1.34 acres of primary agricultural soils (“PAS”). Jewkes pf. at 7; exh. PET-IAJ-2.

70. While a portion of the Project will be sited on these mapped soils, they have no agricultural potential given historical degradation from construction and excavation activities as

well as historical use for stockpiling fill soils. Therefore, they do not qualify as PAS. Jewkes pf. at 7-8.

**Development Affecting Public Investments**

[10 V.S.A. § 6086(a)(9)(K)]

71. The Project will not unnecessarily or unreasonably endanger the public or quasi-public investment in any facility, service, or lands, or materially, jeopardize or interfere with the function, efficiency, or safety of, or the public's use or enjoyment of, or access to any such facility, service, or lands. Veve pf. at 18.

**Public Health and Safety**

[10 V.S.A. § 248(b)(5)]

72. The Project will not result in an undue adverse effect on the health, safety, or welfare of the public and will not unnecessarily or unreasonably endanger the public or adjoining landowners. This finding is supported by findings 73 through 78, below.

73. The Project will not create any waste or other emissions that could be harmful to the public health and safety. Veve pf. at 18.

74. The Project will conform to the NEC and the NESC, as well as utility interconnection standards for safe and reliable operation of solar electric plants. Veve pf. at 18.

75. All switchgear equipment will be inside locked, UL-listed, code-approved electrical enclosures. Veve pf. at 18.

76. The transformer will be installed with a secondary containment system so that surrounding land and water resources are protected in the unlikely event of a fluid leak. Veve pf. at 18.

77. The Project will either be surrounded by a perimeter fence, or panel circuitry will be covered with a protective barrier as a safety measure and in compliance with electrical code requirements. Veve pf. at 29.

78. The solar panels have an anti-reflective coating to absorb the sun's energy and prevent undue glare. Veve pf. at 19.

**Setbacks**

[30 V.S.A. § 248(s)]

79. The Project will comply with the setback requirements of 30 V.S.A. § 248(s) because the Project is set back at least than 40 feet from the nearest public road and at least 25 feet from the nearest property boundary. Veve pf. at 19.

**VI. CONCLUSION**

Based upon the findings and subject to the conditions set forth herein, we conclude that the Project does not raise a significant issue with respect to the substantive criteria of 30 V.S.A. §§ 248 or 8010 and that the Project will promote the general good of the State.

**VII. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Utility Commission (“Commission”) of the State of Vermont that, in accordance with the evidence and plans submitted in this proceeding, the 150 kW (AC) photovoltaic net-metering system (the “Project”) proposed for construction and operation by SMS Solar Array, LLC (the “CPG Holder”) at 428 S. Main Street in St. Albans, Vermont, will promote the general good of the State of Vermont pursuant to 30 V.S.A. §§ 248 and 8010, and a certificate of public good (“CPG”) to that effect shall be issued in this matter. As a condition of this Order, the CPG Holder shall comply with all terms and conditions set out in the CPG issued in conjunction with this Order.

DATED at Montpelier, Vermont, this \_\_\_\_ day of \_\_\_\_\_, 2021.

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

OFFICE OF THE CLERK

Filed:

Attest: \_\_\_\_\_  
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to note 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))*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within thirty days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within ten days of the date of this decision and Order.*