

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 21-2939-NMP

Petition of Randolph Davis 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 group net-metered solar electric generation system in Randolph, Vermont	
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**THE DEPARTMENT OF PUBLIC SERVICE’S RESPONSE TO RANDOLPH
DAVIS SOLAR LLC’S MOTION TO WAIVE COMMISSION RULE 5.108**

On August 11, 2021, Randolph Davis Solar, LLC (the “Petitioner”) filed an application with the Vermont Public Utility Commission (the “Commission”) for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a ground-mounted 500-kW photovoltaic group net-metering system off Davis Road in Randolph, Vermont (the “Project”). On June 24, 2022, the Petitioner filed a revised site plan and supplemental testimony detailing the proposed changes to the Project, together with a motion to waive Commission Rule 5.108(B) and treat the proposed changes as a minor amendment under Rule 5.108(A).

To address concerns raised by the Intervenors in this matter during the Project’s March 25, 2022 site visit, the Petitioner directed its consultant to assess and delineate the vernal pool on the Intervenors’ adjacent parcel. The Petitioner’s revised site plan delineates the vernal pool and an accompanying 100’ buffer, reduces the limits of disturbance (“LOD”) for the Project area by approximately 10,200 square feet, and extends the previous mapping for delineated wetlands west of the Project, further reducing the LOD in the Project area by approximately 2,550 square feet.¹ The Petitioner is not proposing any other changes that fall within the Commission’s

¹ Rebuttal Prefiled Testimony of Martha Staskus, Case No. 21-2939-NMP (June 24, 2022); See Exhibit RDS MS-2 (rev. 6-17-22)

definition of “major amendment.”² Pursuant to Commission Rule 5.108(B), an applicant seeking a major amendment must withdraw its application and refile in accordance with the applicable procedures for that type of net-metering system. In this instance, the major amendment would require the Petitioner to refile the application and require a 45-day notice to all recipients entitled to advance submission, consistent with Commission Rule 5.107.

In support of its motion, the Petitioner asserts good cause exists to waive the refiling and notice requirements of Commission Rule 5.108(B) because the proposed changes do not increase the Project’s capacity, will result in a net decrease to the LOD area and reduce the Project’s impacts, and does not raise a substantial issue with respect to the substantive criteria of Section 248.³

Commission Rule 2.107 provides that the Commission may waive its rules “to prevent unnecessary hardship. . . to prevent injustice, or for other good cause.” The Department concludes that while the proposed changes modify the Project’s limits of disturbance by more than 50 feet, the proposed changes do not otherwise meet the definition of a major amendment, are unlikely to have a significant impact under any of the Section 248 criteria subject to the Department’s review and applicable to net-metering systems, are part of the Petitioner’s efforts in resolving outstanding concerns previously expressed by the Intervenor, and are proposed while the evidentiary record is open and before a final ruling in this matter.

² Under the Commission Rule 5.103, the following changes constitute a “major” amendment: (a) increasing the nameplate capacity of the net-metering system by more than 5% or reducing the nameplate capacity of the net-metering system by more than 60%; (b) moving the limits of disturbance by more than 50 feet; (c) changing the fuel source of the net-metering systems; or (d) any other change that the Commission, in its discretion, determines is likely to have a significant impact under one or more of the criteria of Section 248 applicable to a net-metering system.

³ Request for Waiver of Rule 5.108(B), 21-2939-NMP at 3 (June 30, 2022).

Pursuant to Commission Rule 2.107, the Department concludes good cause exists for the Commission to grant the Petitioner's motion for a waiver of Commission Rule 5.108(B) and deem the proposed changes to the Project as minor amendments. Accordingly, the Department supports the Petitioner's motion.

DATED at Montpelier, Vermont this 8th day of June 2022.

Respectfully submitted,

VERMONT DEPARTMENT OF PUBLIC SERVICE

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cc: ePUC Service List