

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

| | | |
|--|---|-------------|
| Petition of Randolph Davis Solar LLC for a |) | |
| certificate of public good pursuant to 30 V.S.A. |) | |
| §§ 248 and 8010, authorizing installation and |) | 21-2939-NMP |
| operation of a 500 kW (AC) photovoltaic group |) | |
| net-metering system in Randolph, Vermont |) | |

PETITIONER’S REQUEST FOR JUDICIAL NOTICE

NOW COMES Randolph Davis Solar LLC (the “Petitioner” or “Applicant”) and respectfully requests the Hearing Officer to take judicial notice of Petitioner’s May 3, 2021 Preferred Site Letter request submitted to the Town of Randolph Planning Commission and Selectboard (included herewith as Exhibit RDS Judicial Notice-1), and the June 25, 2021 45-Day Advance Notice submitted in Case No 21-2211-AN (included herewith as Exhibit RDS Judicial Notice-2).

Capitalized terms used herein not otherwise defined have the meaning set forth in Petitioner’s June 17, 2023 Comments on the Hearing Officer’s Proposal for Decision.

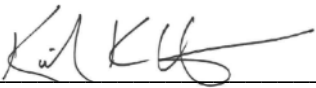
Legal Memorandum

Petitioner is requesting judicial notice of the documents identified above in advance of the August 23, 2023 oral argument so that the Commission and all parties have advance notice and documentation of documents counsel may reference at the oral argument. The Site Plan submitted to the Town of Randolph supporting Petitioner’s request for preferred siting (Exhibit RDS Judicial Notice-1) is the same preliminary site plan included in the June 21, 2021 45-Day Notice (Exhibit RDS Judicial Notice-2), and the 45-Day notice expressly stated that the limit of disturbance would be approximately 11 acres (included herewith as Exhibit RDS Judicial Notice-1). Exhibit MB-6, which is Mr. Binder’s Exhibit labelled “FOIA Selectboard and Planning Commission Correspondence” does not include the Petitioner’s May 3, 2021 preferred site email to the Town accompanying the April 30, 2021 preliminary site plan, a fact which was discovered in preparing for oral argument.

Petitioner respectfully asks the Commission to take judicial notice of these documents for a full and accurate record.¹

DATED at Burlington, Vermont this 22nd day of August, 2023.

Randolph Davis Solar LLC

By: 
Kimberly K. Hayden, Esq.
PAUL FRANK + COLLINS P.C.
One Church Street
P.O. Box 1307
Burlington, VT 05402-1307
(802) 860-4134
khayden@pfclaw.com

8936876_1:12602-00071

¹ Petitioner asks the Commission to take Judicial Notice of Exhibits RDS Judicial Notice 1 and 2. "A judicially noticed fact must be one that is not subject to reasonable dispute in that it is . . . (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." V.R.E. 201(b). Petitioner submits that Exhibits RDS Judicial Notice 1 and 2 are not subject to reasonable dispute in that it is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. V.R.E. 201(b). They are public documents held by the Town of Randolph. Section 810(4) of the Vermont Administrative Procedures Act, as incorporated by Commission Rule 2.216(A), provides that "[n]otice may be taken of judicially cognizable facts" by an agency. Furthermore, Vermont Rule of Evidence 201(d), as incorporated by 3 V.S.A. § 810(1) and Commission Rule 2.216(A), directs that an agency "shall take judicial notice if requested by a party and supplied with the necessary information." Judicial notice may be taken at any stage of a proceeding. V.R.E. 201(f).