



## Vermonters for a Clean Environment

Case No. 25-1253-INV

September 8, 2025

Dear Public Utility Commission,

Vermonters for a Clean Environment appreciates the opportunity to comment on the investigation of the definition of Single Plant and decommissioning financial assurance.

We also appreciate the challenges of addressing this issue at this time, and support the Department of Public Service's Sept. 5, 2025 request for a second extension. However, it might be more appropriate to stay this Investigation pending resolution of related litigation.

### **Preliminary Issues**

As a preliminary matter, we have concerns about moving forward with this Investigation at this time. Single Plant is the subject of litigation currently before the Vermont Supreme Court, Vermont Federal District Court, and the 2<sup>nd</sup> Circuit Court of Appeals.<sup>1</sup> The Vermont Supreme Court is holding oral argument on Sept. 18, 2025 in a case in which Single Plant is the primary issue. The 2<sup>nd</sup> Circuit Court of Appeals held oral argument in a case involving Single Plant, among other issues, on Sept. 3, 2025. Two cases pending before the Public Utility Commission (PUC) have the potential to again raise the Single Plant issue. The party bringing the legal challenges about Single Plant is participating in this Investigation.

VCE has two concerns related to this investigation, the court cases and the participation of the litigant challenging Single Plant.

First, issues discussed and results could then be brought into the court cases, potentially prejudicing the positions of other parties, or resulting in extending litigation or inviting new litigation based on the record in this Investigation.

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<sup>1</sup> U.S. Vermont District Federal Court, 2:20-cv-00103-mkl Allco Finance Limited et al v. Roisman et al, Date filed: 07/21/2020

2<sup>nd</sup> Circuit Court of Appeals, Docket #: 22-2726 Allco Finance Limited v. Roisman Docketed: 10/25/2022

U.S. Vermont District Federal Court, 2:23-cv-00691-gwc Allco Finance Limited et al v. Roisman et al Date filed: 12/08/2023

2<sup>nd</sup> Circuit Court of Appeals Docket, #: 24-3331 Allco Finance Limited v. Roisman Docketed: 12/26/2024

Vermont Supreme Court Case, No. 24-AP-374 In re Petition of Otter Creek Solar LLC Filed on 12/11/2024

Second, participants in this Investigation are at risk of being brought into litigation based on statements or comments submitted in this Investigation. This concern extends to the Public Utility Commissioners, who are the subject of a recusal motion in two cases pending before the PUC brought by the litigant in these Single Plant cases, based in part on statements made in testimony to the legislature.<sup>2</sup> The most recent activity in those cases was August 11, 2025, when two prior Chairs of the PUC issued an Order Denying the Motion to Recuse. The two pending PUC cases are also related to Single Plant issues, as one was previously denied on Single Plant.<sup>3</sup>

There is a significant public interest in the Single Plant issue, as it has already affected community members when projects are permitted and applicants return to add to existing sites that were viewed as “final”. Public participation in this Investigation at this time is chilled by the risk of being brought into litigation.

### **Preliminary Comments**

On the substance of the Investigation, we remind participants that wind turbine projects were the impetus for the creation of the Single Plant statute. Issues have arisen regarding the current definition as they relate to solar projects. However, we do not want participants in this Investigation to lose sight of the need to also address the Single Plant issue as it relates to wind turbines. We hope that commenters will address both technologies. It may be necessary to create separate definitions or statutory language to acknowledge the two different technologies.

### **Conclusion**

VCE recommends staying this Investigation until pending litigation is Dismissed, Closed, and Resolved.

Sincerely,

Annette Smith  
Executive Director  
Vermonters for a Clean Environment

Cc: Rep. Kathleen James  
Sen. Anne Watson

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<sup>2</sup> 23-0249-PET, Chelsea Solar LLC, Date Filed 1/25/23

24-3517-PET, Apple Hill Solar LLC, Date Filed 11/26/24

<sup>3</sup> The other case was denied on Aesthetics and Orderly Development. Both Projects, side by side on the same parcel, are again before the PUC -- one for the second time, one for the third time.