

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 25-2346-PET

Petition of Northland Solar LLC for a certificate of public good, pursuant to 30 V.S.A. §248, authorizing the installation and operation of a 4.999MW solar electric generation facility in Lowell, Vermont

**TOWN OF LOWELL's and INTERVENORS' MOTION TO EXCLUDE  
AESTHETIC TESTIMONY AND EXHIBITS TO BE FILED  
BY THE DEPARTMENT OF PUBLIC SERVICE;  
WITHDRAWAL OF CONCURRENCE WITH  
MOTION TO EXTEND SCHEDULE**

**EXPEDITED ACTION REQUESTED (PUC Rule XX)**

Now comes the TOWN OF LOWELL and Intervenors Lowell Cemetery Commission, Douglas and Deborah Manning, Michael and Pamela Tetreault, and Madonna Sullivan, and do hereby move this Commission to EXCLUDE any aesthetic testimony and exhibits anticipated to be late-filed by the Department of Public Service (Department), and further WITHDRAWS the Town's previously-granted Concurrence with the Department's Motion to Extend Schedule for non-Petitioner Testimony. Expedited action by this Commission is requested on this Motion in order to avoid the case going forward in an unjust, costly and confusing manner with two separate scheduling tracks.

On January 12, 2026, Hearing Officer Gregg Faber signed an Amended Scheduling Order which directed that non-Petitioner testimony was due on Friday, March 13, 2026.

On Thursday March 5, 2026, after a few days of communications and negotiations with the other parties, the Department filed a Motion to Extend Deadline, which would have extended the date for non-Petitioner to file pre-filed testimony to March 27, and moved the rest of the schedule out accordingly.

The Motion as filed by the Department was not titled as a Stipulation; nor was it titled as a Motion to Change Schedule. However, the body of that Motion indicates that the Petitioner, the Town of Lowell, the Intervenors, and the Agency of Natural Resources (ANR) all concurred with

the Motion. The Motion was filed in conformance with PUC Rule 2.207(C), which requires that Motions to Change Schedule be filed at least 3 days before the deadline they seek to change.

Nevertheless, the Hearing Officer did not rule on this agreed-upon Motion to Extend Deadline in a timely manner. The Motion does not appear under ePUC's "Schedule" tab for the case, unlike prior Motions to Change Schedule filed in the case. Accordingly the Commission's January 12, 2026 Scheduling Order is and remains the "law of the case." Unless and until a Motion to Change Schedule is granted and a new Scheduling Order issued, the existing scheduling order remains in effect.

The non-Petitioner filing deadline of March 13, 2026, has now passed. **The Town of Lowell, the Lowell Cemetery Commission, Intervenors Douglas and Deborah Manning, Intervenors Michael and Pamela Tetreault, Intervenor Madonna Sullivan, the Agency of Natural Resources, and the Agency of Agriculture, Farms and Markets, all timely filed their testimony, exhibits or MOUs by the filing deadline of March 13, 2026.** The Department is the *only* non-Petitioner to fail to file in accordance with the PUC's Scheduling Order.

Given the anticipation of approval of the agreed-upon Motion to Extend Deadline, the failure of the hearing officer's lack of timely response to approve such agreed-upon Motion created hardship and expense for the Town and Intervenors. When the Motion was not being approved within a reasonable time frame, the Town and Intervenors, including their expert witnesses, had to work literally around the clock to finalize testimony and exhibits for filing by the deadline on March 13, costing time and money. The Department instead chose to ignore the scheduling order.

The Department's purported basis for requesting the extension in the first place was that bad weather had delayed the work of their contracted aesthetic expert. However, the Town of Lowell engaged an aesthetic expert who came to the site, completed their fieldwork, and prepared and submitted testimony and exhibits by the ordered deadline. Clearly it was not impossible to do so in a timely fashion. The Town of Lowell Selectboard is the legislative body which represents the people of the community in which the proposed project is located. The Town's aesthetic expert represents the interests of the public affected by the project. Any untimely aesthetic testimony and exhibits which the Department might attempt to late-file would therefore be duplicative, unnecessary, and only serve to make the pending action more convoluted, time-consuming and complex.

Discovery on this non-Petitioner testimony is due to be served by March 27, 2026. Had the Department filed its testimony on time, the Town of Lowell and Intervenors had anticipated serving discovery requests on the Department by this deadline. If the Department decides with impunity to file testimony and exhibits on March 27, 2026, the case will be in the untenable position of now having two separate scheduling tracks running simultaneously. It will also place the Town and Intervenors at a distinct inequitable disadvantage; had the amended scheduling order been granted as contained in the agreed-upon Motion, the Town and Intervenors would also have had two additional weeks to prepare, finalize, and file their testimony and exhibits, and would not have suffered the excessive and unanticipated time and expense of the “mad dash” to ensure that everything was timely filed in accordance with Commission Rules and Order.

The Motion to Extend Schedule filed by the Department on March 5, 2026 is now moot; the deadline which it sought to extend is over. The Town of Lowell and the Intervenors accordingly WITHDRAW their support for that Motion; granting that Motion now would be inequitable, unjust, and not in the interests of judicial/administrative efficiency, as it would effectively create two scheduling tracks, and would provide an unfair and unnecessary advantage to one party (the Department). Timely filing within deadlines ordered by this Commission “avoids harm to the regulatory process—‘a process that cannot function when regulated entities ignore their obligations’.” *Petition of Otter Creek Solar, LLC*, Case No. 19-0516-PET, Order Regarding Oral Argument Request dated March 14, 2024. Items which are untimely filed will not be considered by the Commission. *Petition of Industrial Tower and Wireless LLC*, Case No. 24-1755-PET, Procedural Order Denying Motion to Intervene, October 2, 2024 (Greg Faber, Hearing Officer).


Nor can there be said to be “good cause” for it. *Petition of Otter Creek Solar*. As stated above, the Town’s aesthetic expert, a professional firm from some distance away, with a schedule assuredly equally as packed as that of the Department’s expert, managed to get to the site, spend ample time engaged in fieldwork and analysis, and submit testimony and exhibits, despite the fact that it was winter in Vermont. Moreover, in considering whether “good cause” exists to allow an untimely filing, it is notable that the Department took no steps to ensure that the Motion to Extend was timely granted. They did not request expedited processing; they did not file a letter in the case prior to the March 13 deadline urging that a new Scheduling Order be promptly signed.

In considering the timeliness of a filing, this Commission has looked to whether there is “danger of prejudice to any other party”; to whether the delay will have an “effect on this proceeding”; and to whether the delay was “the result of a good faith mistake.” *Application of Sun CSA 22 LLC*, CPG #NM-6199, Order re: Town of New Haven’s Motion to Strike and Notice of Opportunity to Comment or Request Hearing, November 17, 2016. Any untimely filing by the Department in this case creates a distinct prejudice to all the non-Petitioner parties who have proceeded in accordance with the PUC Rules and Scheduling Order; and the untimely filing would have a detrimental effect on this proceeding, creating, quite frankly, a mess. The Department here cannot be said to have been unaware of the filing deadline and did not make a “good faith mistake”; their Motion to Extend Deadline indicates that they were well aware of the March 13, 2026 deadline. Having ignored the deadline cannot therefore be said to be “excusable neglect.” *Petition of Otter Creek Solar*.

Commission orders, including scheduling orders, cannot simply be ignored. The hearing officer’s failure to respond to the agreed-upon Motion to Extend Deadline created extraordinary difficulty for the parties; but the Department’s failure to abide by the existing order has created an absolutely untenable situation. In the interests of justice, equity, and judicial efficiency, this Commission should exclude any testimony and exhibits to be untimely filed by the Department, and in respect for the fact that all other parties complied with the existing schedule, go forward on that existing schedule.

Dated at Lowell Vermont this 14th day of March, 2026

The Town of Lowell Selectboard  
and on behalf of the Intervenors,

  
Jennifer Blay