

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

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<p>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 4.999 MW solar electric generation facility off Route 100 in Lowell, Vermont to be known as the “Northland Solar Project”</p>	<p>Case No. 25-2346</p>
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**TOWN of LOWELL’S OBJECTION TO  
03/18/2026 SCHEDULING ORDER&RULING ON MOTION TO EXCLUDE;  
and TOWN of LOWELL’S MOTION FOR RECONSIDERATION**

The Town of Lowell hereby OBJECTS to the 03/18/2026 Scheduling Order and it’s ruling-by-footnote denying the Town’s Motion to Exclude DPS Testimony. The Town hereby moves for reconsideration of the 03/18/2026 Scheduling Order pursuant to PUC Rule 2.221(a).

**Memorandum of Law**

PUC Rule 2.221(a) states, in relevant part, that

The Commission may on motion grant a new hearing or alter or amend an order on all or part of the issues for any of the reasons for which new hearings have been granted in actions at law or in suits in equity in the courts of this state. On a motion for a new hearing or to alter or amend an order, the Commission may open the proceeding and reconsider a final order if one has been entered, take additional testimony, amend findings of fact and conclusions of law, or make new findings and conclusions, and may direct the entry of a new judgment.

The language of the PUC rule parallels that of the Vermont Rules of Civil Procedure (VRCP) Rule 59(a), which states in relevant part:

**(a) Grounds.** The court before which an action has been tried may on motion grant a new trial to all or any of the parties and on all or part of the issues for any of the reasons for which new trials or rehearings have heretofore been granted in actions at law or in suits in equity in the courts of this state.

Rule 59 “provides courts with the power to rectify their own mistakes in the period immediately following the entry of judgment.” *Stowe Aviation LLC v. Vermont Agency of Commerce and Community Development*, 2024 VT 11 ¶13, quotations and citations omitted. Granting a Rule 59 motion is warranted where the movant demonstrates “a manifest error of law or fact or...newly discovered evidence.” *Sutton v. Purzycki*, 2022 VT 56 ¶67. A Rule 59 motion allows “the trial court to revise its initial judgment if necessary to relieve a party against the unjust operation of a record resulting from the mistake or inadvertence of the court and not the fault or neglect of a party.” *Id.*, citation omitted.

Rule 59(e) “gives the court broad power to alter or amend a judgment,” and the rule may be invoked “to support reconsideration of matters properly encompassed in a decision on the merits.” *In re SP Land Co.*, 2011 VT 104, 16, 190 Vt. 418, 35 A.3d 1007(quotations omitted). Under this rule, the court “may reconsider issues previously before it, and generally may examine the correctness of the judgment itself. That is, Rule 59(e) codified the trial court’s inherent power to open and correct, modify, or vacate its judgments. The trial court enjoys considerable discretion in deciding whether to grant such a motion to amend or alter.” *In re Green Mountain Power Corp.*, 192 Vt. 429 51 (2012). A court’s power on a Rule 59(e) motion even extends to issues not raised in the motion. *Id.*

Granting a Rule 59 motion is appropriate where “the moving party can point to controlling decisions or data that the court overlooked -- matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Latouche v. N. Country Union High Sch. Dist.*, 131 F. Supp. 2d 568, 569 (D. Vt. 2001) (quoting *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995)). Ultimately, a motion to reconsider should be granted to the extent “justice requires.” *Putney School, Inc. v. Schaaf*, 157 Vt. 396, 407 (1991).

Here, justice requires the reconsideration of the 03/18/2026 Scheduling Order due to errors in fact which are appropriate for correction on this Rule 59/Rule 60 motion.

The 03/17/2026 Scheduling Order states:

On December 31, 2025, the Vermont Department of Public Service (“Department”) filed a motion to amend the schedule for this proceeding to allow additional time for the Department’s aesthetic expert review. The Department states that Town of Lowell, the Agency of Natural Resources, a representative for the intervenors, and the Petitioner have consented to the schedule.

It is true that back on December 31, 2025, the Department had filed a motion to amend the schedule, seeking additional time for its aesthetic expert review. The December 31, 2025 Department Motion sought a deadline of Friday March 13, 2026 to submit their aesthetic testimony.

That motion was granted and a scheduling order issued on January 12, 2026. The January 12, 2026 scheduling order remained in effect until the March 18, 2026 scheduling order issued *five days after the expiration of the deadline to submit nonpetitioner testimony and exhibits*.

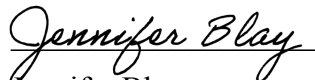
The March 18, 2026 scheduling order does not mention that on March 5, 2026, DPS filed another motion to extend the schedule, seeking a deadline of March 27, 2026 to file nonpetitioner testimony, again stating that their aesthetics expert needed more time. The Town and intervenors assented ONLY because the motion would also provide the Town and intervenors with additional time to prepare their filings.

Since the hearing officer did not grant that motion prior to the March 13 deadline established by the Scheduling Order, the Town and Intervenors were compelled to meet the March 13 deadline. After negotiating and agreeing to the March 5, 2026 DPS Motion, the Town and Intervenors had every reason to believe that the agreed-upon motion would be signed. When it was not, they and their witnesses had to unexpectedly work literally through the night to file by the March 13, 2026 deadline.

To have imposed a March 13, 2026 deadline for *some* parties and then give the Department an extension *five days after the expiration of the deadline* is inequitable and unjust. The Department has presented no justification whatsoever for why they missed the March 13, 2026 deadline, when all the other parties met it.

The proposed schedule is no longer “reasonable” because the deadline it purports to extend *expired five days ago*. The March 18, 2026 scheduling order effectively imposes a different litigation schedule on the Department than it did on the Town and Intervenors (noting that AAFM and ANR also filed their MOUs by the March 13, 2026 deadline). To do so contravenes fundamental principles of equal protection, due process, and the Vermont constitution’s common benefits clause. Laws and rules, including procedural rules, cannot be applied differently to different parties in the same case. The March 18, 2026 scheduling order and footnote-denial of the Town’s Motion to Exclude are unjust, and should be rescinded, with appropriate orders denying the Department’s Motion to Extend Schedule and granting the Town’s Motion to Exclude.

Dated at Lowell, Vermont this 19th day of March, 2026.

  
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