

STATE OF VERMONT
PUBLIC UTILITIES 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 4.999 MW solar electric generation
facility in Lowell, Vermont

**TOWN of LOWELL, LOWELL CEMETERY ASSOCIATION, LOWELL GRADED
SCHOOL BOARD, DOUGLAS & DEBORAH MANNING, MICHAEL & PAM
TETREAULT, MADONNA SULLIVAN'S
MOTION FOR SUBSTANTIAL CHANGE DETERMINATION
and STAY OF PROCEEDINGS**

The Town of Lowell, Lowell Cemetery Association, Lowell Graded School Board, Douglas and Deborah Manning, Michael and Pam Tetreault, and Madonna Sullivan hereby Move this Commission to determine that the new site plan, extensive revised testimony, and additional exhibits demonstrating project changes, filed by Petitioner on May 20, 2026 under the guise of "rebuttal testimony" comprise a substantial change to the project, and accordingly direct Petitioner to file a Motion to Amend Petition pursuant to PUC Rule 2.204(G), and, should such Motion to Amend be granted, to file notice of such Substantial Change pursuant to PUC Rule 5.412.

Memorandum of Law

On May 20, 2026, the deadline for Petitioner to file rebuttal testimony in the above-captioned matter, Petitioner filed four sets of testimony and sixteen exhibits presenting extensive alterations to the proposed project. These new exhibits include new equipment specifications that change the type of solar panels to be installed

(Exhibit NS-TH-3), changes of over 5 acres in the site plan (Exhibits NS-TH-2 and NS-TH-2a), and new photo simulations (Exhibits NS-JO-3a, 3b, and 3c).

Petitioner submitted this array of project changes under the guise of “rebuttal testimony,” without seeking this Commission’s permission to amend the Petition, or labeling them as substantial changes and providing appropriate notice as required by PUC Rules.

PUC Rule 2.204(G) addresses amendments in pending proceedings. It states:

(1) In general. Proposed amendments to any filing may be made at any time before the evidentiary record is closed. **Unless allowed automatically under an applicable statute or rule, or agreed to by all parties (without the Commission denying the amendment), such amendments require Commission approval.** Proposed amendments must be clearly identified and must clearly indicate what changes are being made. In the event an amendment makes a substantial change to a filing, the Commission may order such additional notice to other parties and the public as justice may require.

The amendments which Petitioner has submitted are not allowed automatically by any statute, and they were not agreed to by all parties. These amendments, therefore, require Commission approval. As other Petitioners have done in numerous similar situations Petitioner must file a Motion to Amend the Petition.

The project alterations contained in Petitioners “rebuttal” testimony and exhibits have the potential for significant impact in respect to Section 248(b) criteria including but not limited to aesthetics, orderly development, and impact on the natural environment and primary agricultural soils, as well as the general good of the State under Section 248(a). PUC Rule 5.412 regarding substantial changes made before a decision on a petition states:

If the petitioner makes a substantial change to a proposed project after the petition has been filed with the Commission but before a decision has been issued, the petitioner must **serve notice** of this change on all parties and entities entitled to notice under this rule and Section 248, including any newly affected Adjoining Landowners, as defined by this rule. For the

purpose of this subsection, a substantial change is one that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a).

The PUC requirements for service of notice in §248 cases is found at PUC Rule 5.407, and includes a requirement of filing certification that all appropriate parties have been served notice.

Under PUC Rules, a Motion to Amend and a Substantial Change notice are two separate procedural events, although the Substantial Change notice may well logically follow the grant of a Motion to Amend. *See, e.g. Petition of Vermont Department of Public Service for an investigation into the reliability of the steam dryer and resulting performance of the Vermont Yankee Nuclear Power Station under uprate conditions, Case No. 7195, Order re Motion to Alter or Amend, December 8, 2006.* The requirement to file a Motion to Amend the petition applies in *all* instances of amendments to the project plans as described in the petition, regardless of whether the proposed changes are substantial or non-substantial.

In *Petition of Rising Tide Towers II*, a §248a case interpreting the same language regarding motions to amend and substantial changes as that utilized in §248, this Commission granted Petitioner's Motion to Amend their project, where those amendments were represented in such motion to comprise non-substantial changes. *Petition of Rising Tide Towers II, Case No. 25-0257-PET, Order Re: Motions, Substantial Change Determination, and Stay of Procedural Schedule, June 18, 2025, p.1-2.*

Once the Amended Rising Tide Towers II Petition was filed, however, it demonstrated that the telecommunications facility had been moved 43 feet and involved changes in the earth disturbance limitations. The Commission determined that this comprised a "substantial change," and stayed the proceedings until Petitioner provided appropriate notice of the substantial change to all parties entitled to such notice, and certified that they had completed such notice. *Id.*, p. 2-3. The Hearing

Officer noted that had the potential for significant impact on §248 criteria including aesthetics, impacts on the natural environment, and public health and safety, stating:

It is important to emphasize that the relevant standard for “substantial change” ...considers the *potential* for significant impact. Although the proposed changes to the Facility are relatively narrow in scope, it appears that these revisions ... have the potential for significant impacts...

Id. p. 2.

By contrast, Petitioner’s “rebuttal testimony” amendments here are not “narrow in scope” but rather effect changes across the entire project, including different equipment than initially proposed (non-tracking solar panels) and a new site plan which, as Petitioner’s own filings state, varies from the petition site plan by nearly 20%.

In the Petition of Otter Creek Solar LLC “Stark Solar Project,” Petitioner filed “supplemental testimony and exhibits” that changed the interconnection route for their §248 solar project. Given the potential of this relatively small change to the project plans to impact §248 criteria including wetlands, this Commission determined that the proposed changes were substantial, ordered Petitioner to service appropriate notice and certify that such notice was filed, and altered the schedule of the proceedings to set dates by which any party could file comments on the proposed changes and request additional process in relation to those changes. *Petition of Otter Creek Solar LLC, Case No. 19-3236-PET, Order re: Substantial Change Determination, January 4, 2022.*

The importance of the Substantial Change Rule’s requirement of serving notice on all parties entitled to such notice – not just the parties in the present PUC case – is of critical importance. Adjoining landowners who did not intervene in the case as originally presented in the Petition may nevertheless have interests affected by the revised project plans. Changes that lessen negative aesthetic impacts from one property, for example, may increase those impacts to another property. Here, only adjoining landowners who are Intervenors received the “rebuttal testimony” and non-intervening adjoiners have no idea of the proposed changes. This is precisely why the PUC rules require, in the first instance, a Motion to Amend, which allows the PUC to review the

proposed changes, and if, as here, it is apparent that the changes are substantial, to invoke the Substantial Change rule requiring that *all* persons entitled to notice, not just those already in the case, are served with notice of the project revisions.

Conclusion

Petitioner's project alterations, filed as "rebuttal testimony," change numerous aspects of the project relative to how the project was presented in the Petition. As such, this Commission should direct the Petitioner to file a Motion to Amend under PUC Rule 2.204(G), and set a schedule for filing such Motion and permitting responses thereto.

This Commission should additionally issue a determination that such proposed Amendments comprise Substantial Changes. If Petitioners' to-be-filed Motion to Amend is to be granted, then this Commission should order Petitioner to engage in the notice and certification required by PUC Rule 5.412, and again, set a schedule by which all parties and other persons entitled to notice may respond and make requests for additional process – including but not limited to discovery on the project revisions.

Dated at Lowell, Vermont this 25th day of May, 2026.

/s/Jennifer Blay

Jennifer Blay

/s/Byron Dolan

Byron Dolan

/s/Shauga Richardson

Shauna Richardson

/s/Douglas Manning

Douglas Manning

/s/Michael Tetreault

Michael Tetreault

/s/Madonna Sullivan

Madonna Sullivan