

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

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

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Case No. 25-2346-PET

**PETITIONER’S RESPONSE TO TOWN OF LOWELL AND INTERVENORS’  
MOTION FOR SUBSTANTIAL CHANGE DETERMINATION AND STAY OF  
PROCEEDING AND COMMENTS ON PROPOSED SCHEDULE**

Petitioner Northland Solar LLC (“NS”) hereby responds to the Motion for Substantial Change Determination and Stay of Proceeding and comments on Petitioner’s proposed amended schedule filed on May 22, 2026 by the Town of Lowell and Intervenors Lowell Cemetery Association, Pamela and Michael Tetreault, and Madonna Sullivan and refiled on May 26, 2026 to add Douglas Manning and the Lowell Graded School (all movants hereafter referred to “Motioning Parties”).<sup>1</sup> The Motioning Parties clearly seek to delay this proceeding as long as possible and to create unnecessary procedural hurdles that are counterproductive to the timely review of Section 248 proceedings and the ability of Petitioners to respond to concerns of other parties. For the reasons explained further below, Petitioner requests that the Commission deny the motion and adopt the schedule proposed by Petitioner on May 22<sup>nd</sup>, or in the alternative, a modified version of this schedule.

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<sup>1</sup> The Motioning Parties made two separate filings on May 22, 2026: 1) a “Motion for Substantial Change Determination and Stay of Proceedings” and an “Opposition to Petitioner’s Proposed Schedule Modifications.” The filings were revised and refiled on May 26<sup>th</sup>, 2026. The substantive sections of the revised filings appear to be the same as filed on May 22<sup>nd</sup>, with the only revision being to the sponsoring parties. Because the motions and the opposition to the proposed schedule are interrelated, Petitioner is herein responding to both as revised.

**I. Response to Motion for Substantial Change Determination and Stay of Proceeding**

The Motioning Parties request the Commission to read Rule 2.204(G), which addresses amended filings, into Rule 5.412 in a manner that contravenes common sense, common practice, and the language of Rule 5.412. Rule 5.412 clearly contemplates and addresses the potential for changes to be made to a Section 248 project during a proceeding, and lays out the process for where those changes are of a “substantial” nature as defined the rule:

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).* (Emphasis Added).

Here, the changes to the Project design proposed in Petitioner’s rebuttal testimony are *non-substantial, responsive* changes directly addressing the concerns raised by the Motioning Parties in their testimony. As clearly detailed throughout Petitioner’s rebuttal testimony, these changes reduce the size of the Project and its impacts within the originally proposed footprint of the Project. There are no new impacts to areas not previously within the limits of disturbance and no additional—let alone potentially significant—impacts to Section 248 criteria or the general good of the State. This includes natural resources, to which there are no new proposed impacts, and primary agricultural soils, which will be *less* impacted. Therefore, under the plain language of Rule 5.412, the updates to the site plan proposed by Petitioner in rebuttal do not rise to the level of “substantial” changes requiring further notice to interested parties.

Nonetheless, in order to be responsive to the Town of Lowell’s feedback on the proposed schedule shared prior to Petitioner’s filing, Petitioner voluntarily notified adjoining landowners and other parties entitled to 45-day notice under Rule 5.402 of the changes to the design by letter

and ePUC filing on May 22, 2026. While not required under Rule 5.412 for non-substantial changes, this notice satisfies any concern by the Motioning Parties that the changes are substantial, which they are not. The changes are primarily intended to address the specific concerns regarding impacts to the Lowell Cemetery Association, the Mannings, and Ms. Sullivan, who are all parties to the proceeding and are thus aware of the changes already. The process laid out by the Commission for any substantial, or potentially substantial, changes to a project prior to a decision on a petition is accordingly complete and there is no justification for delaying further.

Insofar as the Motioning Parties attempt to bring in Rule 2.204(G) to suggest that Petitioner must seek further approval to submit responsive, reductive changes to the Project, this is incorrect. The changes to reduce the Project impacts were submitted in accordance with the schedule approved and duly adopted by the Hearing Officer, which included rebuttal testimony and exhibits. Rebuttal is specifically intended for responses to the issues raised in testimony of other parties. It is a longstanding practice of petitioners to make non-substantial changes or improvements to projects during the proceeding without seeking prior approval to amend a petition in order to address specific concerns of other parties, such as responsive relocation of plantings in a landscape mitigation plan and reductions in Project footprint.<sup>2</sup> Where such changes are “substantial,” the notice requirements set forth in Rule 5.412 would apply; where

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<sup>2</sup> See, e.g., *In re Mill River Solar, LLC*, Case No. 24-0606-PET, Petitioner’s Supplemental Filing of July 17, 2024 (Including revised site plan and landscape mitigation plan to address, among other things, minor layout changes following a site visit with Agency of Natural Resources staff). Conversely, while Motioning Parties cite *In re Otter Creek Solar LLC*, Case No. 19-3236-PET and *In re Rising Tide Towers II*, Case No. 25-0257-PET in their Motion, in *Otter Creek Solar* the petitioner did not file a Rule 2.204(G) Motion to Amend, and the Commission did not reference any such requirement related to the proposed change in interconnection route. Petitioner further notes that Case No. 25-0257-PET is a 30 V.S.A. § 248a proceeding not subject to Commission Rule 5.400 and is therefore not directly relevant.

project changes do not present the potential for significant impact to Section 248 criteria because they reduce, mitigate, or do not materially change the level of Project impacts, the parties to the proceeding receive the filing and have an opportunity to respond within the established schedule of the proceeding. To read Rule 2.204(G) as the Motioning Parties do would be to require Commission approval prior to any update, regardless of scale. Proceedings would halt to a standstill at any minor correction to a misstatement in testimony or change to the location of a single tree in the landscape mitigation plan until the Commission issued approval to introduce such an update. Such a result is not only impractical and inconsistent with established practice in Section 248 proceedings, it would also directly contravene the Commission's directive under Rule 2.106 to construe its rules "liberally . . . to secure the just, timely, and inexpensive determination of all issues presented to the Commission." Moreover, such a reading of the rules would go against public policy, which should encourage the ability of petitioners to be responsive to concerns expressed by other parties rather than dissuading them from engaging in any changes or improvements to project design out of fear for undue and unnecessary delays to the proceeding.

In this case, Petitioner made a good faith attempt to address concerns raised by the Motioning Parties and other parties in the proceeding by making non-substantial changes to the Project design to reduce the Project size and impacts. Even if the Commission were to find these impacts "substantial" as defined under Rule 5.412, which they are not, Petitioner has proactively complied with the notice requirement under Commission Rule 5.412 and this issue is therefore moot. The Commission should deny Motioning Parties' request to delay this proceeding for weeks, if not months, in order to require Petitioner to seek Commission approval for responsive changes to reduce the Project's impacts that have already been appropriately submitted in

rebuttal filings under the schedule set by the Hearing Officer. Instead, the Hearing Officer should further adopt a reasonably timely schedule for the remainder of this proceeding, as addressed further below.

## **II. Response to Comments on Proposed Schedule**

As discussed above, the Motioning Parties ask the Commission not to adopt any further schedule at this time and to stay the proceeding unnecessarily in an obvious attempt to stall this Project that would contradict both the process laid out in Commission Rule 5.413 and the Commission's directive to secure the just, timely, and inexpensive determination of all issues presented to the Commission under Rule 2.106. The Commission should adopt a schedule as soon as possible and proceed with review of Petitioner's petition, including plans for the reduced Project size.

With respect to the alternative schedule presented by the Motioning Parties in their schedule modification opposition filing, Petitioner attempted to work with the Motioning Parties before filing the proposed modified schedule by sharing the proposal in order to seek feedback. While the Town of Lowell responded through Ms. Blay, she did not propose revised dates or additional deadlines to Petitioner or the other parties. Instead, the Motioning Parties submitted the alternative schedule included in the Motioning Parties' filing immediately after Petitioner's filing without seeking any other parties' input.

Petitioner requests the following changes to this proposal, which address the Motioning Parties' requests for discovery in a more reasonably timely manner. First, Petitioner does not object to the inclusion of an opportunity for discovery on Petitioner's rebuttal filing, but then requests a reciprocal opportunity for discovery on Non-Petitioners' surrebuttal filing. Second,

Petitioner objects to the length of time for the deadlines proposed under the Motioning Parties' schedule, which includes nearly two months between Petitioner's rebuttal filing and the filing of surrebuttal and six weeks for post-hearing briefing. Petitioner therefore requests the following proposed revisions to the alternative schedule submitted by the Motioning Parties be adopted, which are a reasonable compromise between Petitioner's proposal and the Motioning Parties' proposal:

<b>Event</b>	<b>Deadline</b>
Discovery requests on Petitioner's rebuttal filing due	June 3, 2026
Responses to Discovery requests on Petitioner due	June 12, 2026
Non-Petitioners file surrebuttal testimony	June 17, 2026
Discovery requests on Non-Petitioners surrebuttal filing due	June 24, 2026
Responses to Discovery requests on Non-Petitioners due	July 6, 2026
Parties file witness order and anticipated timing of witness examinations, and comprehensive exhibit list and stipulations as to admission of testimony and exhibits	July 15, 2026
Evidentiary hearing	Between July 21-24, 2026
Deadline to file briefs	14 days after evidentiary hearing transcripts are received
Deadline to file reply briefs	10 days after initial briefs are filed

### III. Conclusion

For the above stated reasons, Petitioner requests that the Hearing Officer deny the Motioning Parties' request for an unnecessary stay of this proceeding and determination of substantial changes. Petitioner's changes were submitted as a response to the testimony of the other parties pursuant to a duly adopted schedule event—rebuttal. Furthermore, although the Project changes proposed by Petitioner fall within the definition of non-substantial under Rule 5.412, Petitioner has nonetheless provided notice consistent with this rule, and therefore the Motioning Parties' request for a substantial change determination is moot. Petitioner therefore requests that the Hearing Officer adopt the schedule set forth above, which addresses the Motioning Parties' request for discovery on rebuttal in a timely manner consistent with Rule 2.106.

Dated at Burlington, Vermont this 26<sup>th</sup> day of May, 2026.



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