

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-5024-PET

Petition of Chelsea Solar LLC, pursuant to 30 V.S.A. § 248, for a certificate of public good authorizing the installation and operation of the “Chelsea Solar Project,” a 2.0 MW solar electric generation facility on Willow Road in Bennington, Vermont	
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Order entered: 03/21/2018

PREHEARING CONFERENCE ORDER

I. INTRODUCTION

On March 2, 2018, Chelsea Solar LLC (“Chelsea” or the “Petitioner”) and the Vermont Department of Public Service (“DPS” or the Department”) each filed proposed schedules for this proceeding (respectively, the “Chelsea Schedule” and the “DPS Schedule”). In its filing, the Department represented that the Vermont Agency of Natural Resources and the Town of Bennington agreed to the DPS Schedule. In this Order, I issue a schedule for this proceeding.

II. BACKGROUND AND DISCUSSION

On March 7, 2018, I held a prehearing conference in this matter. Appearances were entered by Traci Leibowitz, Esq.,¹ for the Department; Donald Einhorn, Esq., for the Vermont Agency of Natural Resources; Merrill E. Bent, Esq., for the Town of Bennington; and Annette Smith, for Vermonters for a Clean Environment; Libby Harris, *pro se*;² and Michael Melone, Esq., and Kimberly K. Hayden, Esq., for the Petitioner.

I then discussed the proposed schedules filed by the Department and Chelsea with the parties. The DPS Schedule included a full litigation schedule with two rounds of discovery for the parties and concluded with an evidentiary hearing on September 18, 2018. The Chelsea schedule was shorter, allowed for a single round of discovery, and ended with an evidentiary

¹ From the bench, I ruled that a *pro hac vice* motion filed by the Department was moot because Attorney Leibowitz had recently been admitted to the Vermont bar. Tr. 3/7/18 at 4 (Tousley).

² During the prehearing conference, Chelsea stipulated that it did not object to the intervention of Ms. Harris, and I granted her permissive intervention from the bench. *Id.*

hearing on April 20, 2018. The Chelsea Schedule was premised on achieving a projected December 3, 2018, commissioning deadline for the project.

On March 9, 2018, the Department and Chelsea each filed briefs with the Commission in support of their proposed schedules (respectively, the “DPS Brief” and “Chelsea Brief”). Chelsea requested that if an extended schedule is ordered “the Commission also extend the commissioning deadline so that Chelsea has at least five decent weather months (i.e., the months of April to October) between the date of a final order and the commissioning deadline, as part of the scheduling order.”³

On March 15, 2018, the Commission extended the commissioning deadline in Chelsea’s standard-offer contract to August 31, 2019, rather than December 3, 2018.⁴

The extension of the standard-offer contract’s commissioning deadline nearly nine months beyond the projected December 3, 2018, date is consistent with Chelsea’s request, obviates the need for the expedited schedule requested in the Chelsea Schedule, and allows for a full review of the petition with participation by all the parties as sought by the Department.⁵ The schedule issued below will also allow the parties to address two threshold legal issues brought out by Chelsea in its brief, that is, the questions of which Town Plan is applicable and the impact that issue preclusion may have on the review of the petition.⁶

III. SCHEDULE

Based on the proposed schedules, the discussion at the prehearing conference, and the briefs of the parties, I adopt the following schedule for this matter:

Date	Event
March 30, 2018	Non-Petitioner parties file briefs in response to Petitioner’s threshold legal issues re the Town Plan and issue preclusion
April 6, 2018	Petitioner replies to the non-Petitioner parties re threshold legal issues
TBD in the Week of April 9, 2018	Site Visit, Information Session, and Public Hearing

³ Chelsea Brief at 12.

⁴ *Petition of Chelsea Solar, LLC for relief from standard-offer contract milestone*, case no. 17-4695-PET, Order of 3/15/18.

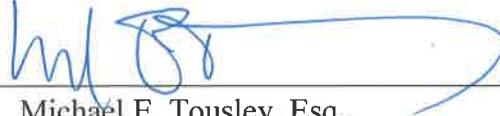
⁵ DPS Brief at 2.

⁶ Chelsea Brief at 9-11.

April 16, 2018	Motions to intervene due
April 23, 2018	Responses to motion to intervene due
April 27, 2018	Deadline for Round I discovery on Petitioner by statutory parties
April 30, 2018	Deadline for Round I discovery on Petitioner by intervenors
May 11, 2018	Deadline for Petitioner to respond to Round I discovery by statutory parties
May 18, 2018	Deadline for Petitioners to respond to Round I discovery by intervenors'
June 1, 2018	Deadline for Round II discovery on Petitioner by all parties
June 13, 2018	Deadline for Petitioner to respond to Round II discovery by all parties
<i>If matter is uncontested</i>	
June 22, 2018	Petitioner files stipulations, if any
July 2, 2018 at 9:30 A.M.	Evidentiary Hearing
July 13, 2018	Petitioner files proposed findings of fact and order
<i>If matter is contested</i>	
June 22, 2018	Non-petitioner parties file direct testimony
June 29, 2018	Deadline for discovery by Petitioner on non-Petitioner parties
July 20, 2018	Deadline for non-Petitioner parties to respond to discovery
July 27, 2018	Petitioner files rebuttal testimony
August 10, 2018	Non-petitioner parties file discovery on Petitioner's rebuttal
August 17, 2018	Deadline for Petitioner to respond to discovery
August 31, 2018	Non-Petitioner parties file sur-rebuttal
September 13, 2018	Evidentiary Hearing
September 28, 2018	Parties file post-hearing briefs with proposed findings of fact and order
October 12, 2018	Parties file post-hearing reply briefs

SO ORDERED.

Dated at Montpelier, Vermont, this 21st day of March, 2018.



Michael E. Tousley, Esq.
Hearing Officer

OFFICE OF THE CLERK

Filed: March 21, 2018

Attest: Judith C. Whitney
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 17-5024-PET - SERVICE LIST

Parties:

Anson Tebbetts, Secretary
Vermont Agency of Agriculture, Food and
Markets
AGR.Notice@vermont.gov
(for Vermont Agency of Agriculture, Food and
Markets)

Merrill E Bent, Esq.
Woolmington, Campbell, Bernal & Bent, P.C.
PO Box 2748
Manchester Center, VT 05255
merrill@greenmtlaw.com
(for Town of Bennington)

*Lora Block
AppleHill Homeowners Association
34 McIntosh La
Bennington, VT 05201
lblock@sover.net
(for Apple Hill Homeowners Assoc)

Donald J. Einhorn, Esq.
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05602-3901
donald.einhorn@vermont.gov
(for Vermont Agency of Natural Resources)

Libby Harris, *pro se*
531 APPLE HILL ROAD
Bennington, VT 05201
libbyharris@comcast.net

Kimberly K. Hayden, Esq.
Paul Frank + Collins PC
One Church Street 05402
P.O. Box 1307
Burlington, VT 05401
khayden@pfclaw.com
(for Chelsea Solar LLC)

Traci Leibowitz, Esq.
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620-2601
traci.leibowitz@vermont.gov
(for Vermont Department of Public Service)

Michael Melone, Esq.
Allco Renewable Energy Limited
1745 Broadway
17th floor
New York, NY 10019
mjmelone@allcous.com

(for Chelsea Solar LLC)

Thomas Melone, Esq.
Allco Renewable Energy Limited
1745 Broadway
17th floor
New York, NJ 10019
thomas.melone@gmail.com

(for Chelsea Solar LLC)

James Porter, Esq.
Vermont Department of Public Service
112 State St
Montpelier, VT 05620
james.porter@vermont.gov

(for Vermont Department of Public Service)

Robert E. Woolmington, Esq.
Woolmington, Campbell, Bernal & Bent, P.C.
P.O. Box 2748
4900 Main Street
Manchester Center, VT 05255
rob@greenmtlaw.com

(for Town of Bennington)

*Motion to Intervene pending.

Non-Party Recipients:

Annette Smith, Executive Director
Vermonters for a Clean Environment
vce@vermontel.net

Joe Flynn, Secretary
Vermont Agency of Transportation
AOT.ePSBNotifications@vermont.gov

(for Vermont
Agency of
Transportation)

c/o Mary-Kay Swanson, Executive Assistant
Office of the Vermont Attorney General
ago.info@vermont.gov

(for Office of
the Vermont
Attorney
General)

Mark Levine, M.D., Commissioner
Vermont Department of Health
AHS.VDHPSB@vermont.gov

(for Vermont
Department of
Health)

Senior Historic Preservation Review Coordinator Survey Archaeologist
Vermont Division for Historic Preservation
acd.projectreview@vermont.gov

(for Vermont
Division for
Historic
Preservation)