

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 21-2939-NMP

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Petition of Randolph Davis Solar LLC for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 500 kW group net-metered solar electric generation system in Randolph, Vermont	
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Order entered: 04/05/2022

**ORDER RE: MINOR AMENDMENT TO PROJECT**

This case concerns an application filed with the Vermont Public Utility Commission (“Commission”) by Randolph Davis Solar LLC (“Petitioner”) to construct and operate a 500 kW group net-metered solar electric generation system in Randolph, Vermont (the proposed “Project”). In today’s Order, I determine that the Project changes constitute a minor amendment.

On February 16, 2022, the Petitioner filed a revised Project site plan (Exh. RDS-MS-2 (revised 2-9-22)) and explained that the solar panels have been moved to be situated on slopes less than 25%. On February 25, 2022, the Petitioner filed supplemental testimony to explain the changes to the site plan and a second revised site plan to show the slope of the land (Exh. RDS-MS-2A). The Petitioner states that it has redesigned the array within the existing limit of disturbance so that the panels are located on areas that do not contain slopes greater than 25%.<sup>1</sup>

On March 10, 2022, I issued a procedural order stating that the changes depicted in the revised site plan constitute an amendment and requested that the Petitioner provide its reasoning as to why the proposed changes constitute either a minor or major amendment pursuant to Commission Rule 5.103.

On March 16, 2022, the Petitioner filed a notice of minor amendment and a Modification Fee form. The Petitioner represents that it provided notice to all persons who were entitled to receive a copy of the original application. The Petitioner asserts that the amendment does not constitute a major amendment pursuant to Commission Rule 5.103 because it does not involve (a) increasing the nameplate capacity of the net-metering system; (b) moving the limits of disturbance by more than 50 feet; (c) changing the fuel source of the net-metering system; or (d)

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<sup>1</sup> Staskus supp. pf. at 2-3.

any other changes that is likely to have a significant impact under one or more of the criteria of Section 248 applicable to the net-metering system.

On March 25, 2022, the Vermont Department of Public Service (“Department”) filed comments stating that it has no objection to the minor amendment and reserves its right to comment on the final proposal. On the same date, Michael Binder and Joan Allen (the “Intervenors”) filed comments stating that the Project changes should be treated as a major amendment<sup>2</sup> because the Petitioner did not provide any information or analysis as to why the changes will not “have a significant impact under one or more of the criteria of Section 248 applicable to the net-metering system.”

On March 30, 2022, the Intervenors filed additional comments on the minor amendment stating that the Petitioner has not complied with the notice requirements of Commission Rule 5.108(A) because an adjoining landowner, Sara St. Peter, sold their property on February 2, 2022.

A comparison of the revised site plan to the original site plan appears to show that the array has been reconfigured within the original fence line boundaries that are within the Project’s limits of disturbance. Further, there have been no changes to the limits of disturbance. Accordingly, I determine that the changes to the Project do not meet the definition of a major amendment and may be considered a minor amendment.

Turning to the issue of notice to new adjoining landowners, the Intervenors lack standing to raise this issue. The Commission’s rules require applicants to “provide notice of all minor amendments to all persons and entities who were entitled to receive a copy of the original application.”<sup>3</sup> The use of the verb “were” suggests that this provision refers to the persons and entities who received notice at the time of the original application and does not include new landowners. Even if the Petitioner was required to provide notice to any new landowners, the Applicant is only required to use “the most recent version of the town’s grand list” to identify landowners.<sup>4</sup> The Intervenors have not indicated whether the grand list had been updated by the

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<sup>2</sup> The Intervenors also raise concerns regarding whether the Petitioner’s site plan includes the streams, wetlands, and vernal pool that were viewed at the March 25 site visit. The Intervenors reiterated these concerns in their second motion to stay filed on March 29, 2022. That motion will be addressed in a separate order.

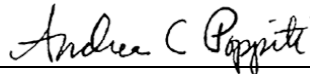
<sup>3</sup> Rule 5.108(A).

<sup>4</sup> Rule 5.107(D)(3).

date the notice was filed. Finally, the information provided by the Petitioner show that the proposed changes are minor in nature, therefore, any defect in notice is harmless.

**SO ORDERED.**

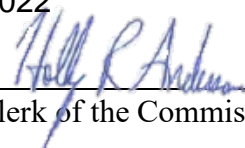
Dated at Montpelier, Vermont, this 5th day of April, 2022.



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Andrea Poppiti  
Hearing Officer

OFFICE OF THE CLERK

Filed: April 5, 2022

Attest:   
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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](mailto:puc.clerk@vermont.gov))*

PUC Case No. 21-2939-NMP - SERVICE LIST

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