

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Petition of Randolph Davis Solar LLC for a)	
certificate of public good, pursuant to 30 V.S.A.)	Case No. 21-2939-NMP
§§ 248 and 8010, authorizing the installation)	
and operation of a 500 kW group net-metered)	<i>Filed electronically via ePUC</i>
solar electric generation system in Randolph,)	
Vermont)	

**VERMONT AGENCY OF NATURAL RESOURCES’S RESPONSE TO
INTERVENORS’ MOTION TO CHANGE SCHEDULE, REOPEN DISCOVERY,
PERMIT REBUTTAL TESTIMONY & CONTINUE EVIDENTIARY HEARING**

On June 28, 2022, Michael Binder and Joan Allen (together “Intervenors”) filed a Motion to Change Schedule, Reopen Discovery, Permit Rebuttal Testimony, and Continue Evidentiary Hearing (“Motion”) Pursuant to the Hearing Officer’s Procedural Re: Responses to Motion to Change Schedule issued on June 28, 2022, the Vermont Agency of Natural Resources (“Agency”), by and through its representatives, Kevin Anderson and Aaron Kisicki, submit the following response to the Motion.

The Motion seeks a change of schedule, reopening of discovery, and permit the filing of an additional round of surrebuttal testimony to address three general issues: 1) a revised site plan filed by Randolph Davis Solar, LLC (“Applicant”) on June 24, 2022 reflecting the existence of a vernal pool to the north of the proposed project, expansion of the wetlands delineated near the project, and changes made to the physical layout of the project to avoid impacts to those features; 2) the substance of rebuttal testimony filed by Dori Barton and Scott Homsted filed by the Applicant on June 24, 2022; and 3) comments filed by the Agency on June 24, 2022 reserving the right to respond to anticipated rebuttal testimony and a procedural order issued by the Hearing Officer the day prior.

The Agency supports changing the schedule to allow for an additional round of discovery limited to the issues presented for the first time in rebuttal testimony. It is reasonable for the Hearing Officer to provide the parties with a limited opportunity to explore the bases of the analysis and conclusions outlined in rebuttal testimony in order to facilitate efficient and fair cross-examination at an evidentiary hearing.

On the other hand, while the Agency does not necessarily oppose the Hearing Officer granting an additional round of surrebuttal testimony, it does question the value of such testimony at this stage of the proceeding. The Applicant's and Intervenors' positions relative to the existence of a vernal pool and wetlands near the project site, and the project's effect on soil erosion have been established in prefiled testimony. Distillation of any outstanding issues or questions in this case may be better achieved through cross-examination of party witnesses when compared to filing additional testimony. That said, the Agency supports allowing for additional testimony from qualified expert witnesses if such testimony would aid the Hearing Officer in understanding a currently unclear project impact.


Finally, the Motion quotes a portion of the Agency's June 24 comments as a basis for changing the schedule. The Agency notes that its comments reserving the right to comment in response to anticipated rebuttal testimony from the Applicant and the Hearing Officer's June 23 procedural order were not intended to be interpreted as a request to change the schedule. The Agency's comments were driven in large part by neither having fully understood the details of the June 23 procedural order, nor having reviewed the Applicant's rebuttal testimony at the time of filing. The Agency has since reviewed those materials closely and sees no need to change the schedule as a result of their contents.

Dated at Montpelier, Vermont, this 30th day of June 2022.

VERMONT AGENCY OF NATURAL RESOURCES

By: 

Kevin Anderson
Regulatory Policy Analyst
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901
(802) 798-2087
Kevin.Anderson@vermont.gov

By: 

Aaron Kisicki, Esq.
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901
(802) 622-4268
Aaron.Kisicki@vermont.gov