

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-2939-NMP

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: 08/08/2022

ORDER RE: SECOND 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, the Commission determines that proposed changes to the Project constitute a minor amendment.

On June 30, 2022, the Petitioner filed a request for waiver of Rule 5.108(B) and a determination that an approximately 80-foot shift to the Project’s limits of disturbance (“LOD”) constitutes a minor amendment under Commission Rule 5.108(A). The Petitioner explains that the LOD will be reduced by approximately 10,200 square feet (0.24 acre). The Petitioner also filed a notice of minor amendment and a Modification Fee form. The Petitioner represents that it provided notice to all persons and entities who were entitled to receive a copy of the original application.

Pursuant to Commission Rule 5.108(B), an applicant seeking a major amendment must withdraw its application and refile in accordance with the procedures for the category of net-metering system applicable to the amended project. In this instance, the major amendment process would require the Petitioner to refile the application after providing a new 45-day notice to all recipients entitled to receive an advance submission, consistent with Commission Rule 5.107. By contrast, an applicant may pursue a minor amendment to a proposed project by providing notice of the amendment to specified entities and persons who then have 10 days to file comments on the proposed amendment.

On June 24, 2022, the Petitioner submitted a revised site plan that added a wetland/vernal pool that was identified during a site visit conducted on March 25, 2022, on the property of Michael Binder and Joan Allen (the “Intervenors”). The Petitioner delineated a 100’ buffer and extended the original western mapped wetland cartographic arrow to Davis Road.¹ The second minor amendment is described in the June 30, 2022, affidavit of Martha Staskus. The shift in the LOD results in an approximately 80-foot retraction of the LOD’s northernmost corner. The LOD shift does not involve changing the Project capacity or the fuel source of the Project. According to the Petitioner, the LOD shift does not have the potential to have a significant impact under the applicable Section 248 criteria, and in fact reduces Project impacts.

The Petitioner requests that the Commission waive, in this instance, the determination that a movement of the limits of disturbance by more than 50 feet constitutes a major amendment. The Petitioner states that there is good cause for this waiver because the change does not increase the Project’s capacity and will not raise a substantial issue with respect to any of the substantive criteria of Section 248. According to the Petitioner, the LOD shift results in a net decrease in the LOD area and as such could reduce Project impacts.

The Petitioner argues that requiring the major amendment process is unnecessary, unduly burdensome, and would cause unnecessary delay, consequences that are not justified given that the proposed change does not raise a substantial issue with respect to any of the substantive criteria of Section 248. In similar circumstances, the Commission has found good cause to issue a waiver where the LOD moved more than 50 feet.²

On July 8, 2022, the Vermont Department of Public Service (“Department”) filed comments stating that it has concluded that while the proposed changes modify the Project’s limits of disturbance by more than 50 feet, the changes do not otherwise meet the definition of a major amendment and are unlikely to have a significant impact under any of the Section 248 criteria subject to the Department’s review and applicable to net-metering systems. The Department concludes that good cause exists for the Commission to grant the Petitioner’s motion for a waiver of Commission Rule 5.108(B) and to deem the proposed changes to the Project as minor amendments. Accordingly, the Department supports the Petitioner’s motion.

¹ Staskus Affidavit of 6/30/22.

² See Request of White River Community Solar LLC, Case No. 21-4187-PET, Order of 12/02/21.

Also on July 8, 2022, the Intervenors filed comments stating that they agree with the Petitioner that the amendment should be treated as minor.³ No other comments were filed.


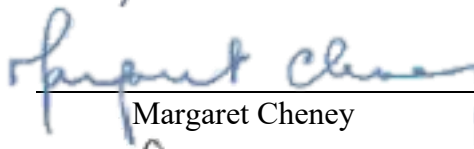
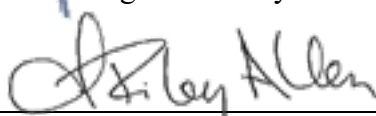
The Commission may waive the application of a rule in order to prevent unnecessary hardship or delay, in order to prevent injustice, or for other good cause.⁴ In this case, no party has raised concerns that the proposed amendment would have a significant impact under any Section 248 criteria. Due to the circumstances in this case, the Commission finds good cause to waive the requirement that the Petitioner use the major amendment process even though the Project's limits of disturbance have moved more than 50 feet. The Petitioner's request for a waiver is granted. Because more than ten business days have passed and no objections to the Petitioner's notice of minor amendment have been filed, the Petitioner's proposed amendment is accepted.

SO ORDERED.

³ The Intervenors' comments also suggest that a major amendment to the Project may be needed related to the Project's access road. The Hearing Officer will address any proposed amendment when and if the Petitioner makes such a request.


⁴ See Commission Rule 2.107.

Dated at Montpelier, Vermont, this 8th day of August, 2022.

 _____)) PUBLIC UTILITY
Anthony Z. Roisman)	
))	
 _____)) COMMISSION
Margaret Cheney)	
))) OF VERMONT
 _____)	
J. Riley Allen)	

OFFICE OF THE CLERK

Filed: August 8, 2022

Attest: 
_____)
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)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

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

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