

State of Vermont
Department of Public Service
112 State Street
Montpelier, VT 05620-2601
<http://publicservice.vermont.gov>

[phone] 802-828-2811
[fax] 802-828-2342
[tdd] 800-734-8390

November 14, 2017

Judith Whitney, Clerk
Vermont Public Service Board
112 State Street
Montpelier, VT. 05620-2701

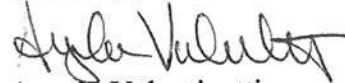
Re: CPG #16-0042-NMP – Application of Orchard Road Solar I

Dear Ms. Whitney:

Enclosed for filing in the above-referenced matter, please find an original and one copy of the Public Service Department's Response to Pro Se Parties' Motion to Supplement the Record.

Thank you.

Sincerely,



Angela Valentinetti
Legal Assistant

cc: Attached Service List



CPG #16-0042-NMP - SERVICE LIST

Stephanie Hoffman, Esq.
Vermont Department of Public Service
112 State Street
Montpelier VT 05620-2601
steph.hoffman@vermont.gov

Geoffrey H. Hand, Esq.
Victoria Westgate, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand
91 College Street – PO Box 545
Burlington, VT 05402-0545 **(for Applicant)**
ghand@dunkielsaunders.com
vwestgate@dunkielsaunders.com

James Duggan
Division for Historic Preservation
1 National Life Drive, Davis Bldg, 6th Flr
Montpelier, VT 05620-0501
james.duggan@vermont.gov

Randy J. Miller, II, Esq.
Vermont Agency of Natural Resources
1 National Life Dr, Davis 2
Montpelier, VT 05620-3901
randy.miller@vermont.gov
anr.notice@vermont.gov

David P. Wright, President
Middletown Springs Historical Society
10 Park Avenue – PO Box 1121
Middletown Springs, VT 05757
montvert@vermontel.net

L. Brooke Dingleline, Esq.
Valsangiacomo Detora McQuesten
PO Box 625
Barre, VT 05641
lbrooke@vdmlaw.com

(for Richard Spitalny, Ted & Dina Fitzpatrick, Peter & Aileen Stevenson, Neil & Thomas Russell, Karen & Robert Galloway, Daniel McKeen & Ellen Secord)

John E. Arsenault, Chairman
Middletown Springs Planning Commission
PO Box 1232
Middletown Springs, VT 05757
jea@vermontel.net

Richard Spitalny
24 Tanglewild Road
Chappaqua, NY 10514
rspitalny@hotmail.com

Karen Gutmann & Larry Springsteen
290 West Street
Middletown Springs, VT 05757
orchardnubians@aol.com

Douglas Freilich & Julie Sperling
PO Box 1041
Middletown Springs, VT 05757
nagabake@vermontel.net

Elizabeth Cooper
49 Rocks & Trees Ln – PO Box 1011
Middletown Springs, VT 05757
ecolanduse@vermontel.net

Ed Bove, Executive Director
Rutland Regional Planning Commission
67 Merchants Row – PO Box 965
Rutland, VT 05701
ebove@rutlandrpc.org

Green Mountain Power Corp.
163 Acorn Lane
Colchester, VT 05446
dr@greenmountainpower.com

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Application of Orchard Road Solar I, LLC for a)
certificate of public good, pursuant to 30 V.S.A.) CPG #16-0042-NMP
§§ 219a and 248, for a 500 kW interconnected)
group net-metered solar electric generation system)
in Middletown Springs, Vermont)

**THE PUBLIC SERVICE DEPARTMENT’S RESPONSE TO
PRO SE PARTIES’ MOTION TO SUPPLEMENT THE RECORD**

Now comes the Vermont Public Service Department (the “Department”), by and through its undersigned counsel, and hereby submits to the Vermont Public Utility Commission (the “Commission”) the following response to Pro Se Parties’ Motion to Supplement the Record (“Pre Se Parties’ Motion”). Pro Se Parties’ request to supplement the record should be denied.

Commission Rule 2.206 contemplates post-hearing, written motions “*made within a reasonable time after the issue first arises with respect to the moving party.*” (Emphasis added.) Pro se parties seek to admit photographs of the site with a tent erected and cars parked for a wedding, arguing that “[a]t no time from the announcement of the project to the close of the evidentiary record did any opportunity present itself to clearly show what a large visual impact would result from the proposed 500 kW solar array.” Pro Se Parties’ Motion at 1. However, Pro Se Parties offer evidence that functionally was available prior to the hearing and goes to issues that were the focused subject of the hearing in this matter: views from particular private viewpoints. While the photographs in question capture a particular event and items on the property on which the Project is proposed, this evidence does not provide “highly material” evidence necessary for the determination of the outcome of this case. *See Petition of Chelsea Solar LLC*, Docket No. 8302, 2017 WL 1425504, at *16 (Vt.P.S.B. Apr. 14, 2017) (quotation omitted).

Parties had an opportunity to submit evidence to the Commission throughout the proceedings, including simulations of the proposed Project on the site. Pro se parties have not articulated why such evidence should be accepted after hearing and briefing and, thus, outside the period for cross-examine or redirect of witnesses regarding it. The parties have submitted their briefs in reliance on the evidence that was before the Commission at the hearing.

For the reasons provided above, the Commission should deny Pro Se Parties' request to file supplemental evidence.

Dated at Montpelier, Vermont this 14th day of November, 2017.

VERMONT PUBLIC SERVICE DEPARTMENT

By: _____


Stephanie Hoffman, Special Counsel
112 State Street
Montpelier, VT 05620-2601
(802) 828-5543
steph.hoffman@vermont.gov