

August 9, 2018

By Email and Hand Delivery

Ms. Judith Whitney, Clerk
Vermont Public Utility Commission
112 State Street, Drawer 20
Montpelier, VT 05620-2701

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

Dear Ms. Whitney:

Enclosed please find Applicant Orchard Road Solar I, LLC's *Stipulated Motion to Stay Proceedings* for filing in the above-referenced matter.

Please do not hesitate to contact us with any questions.

Sincerely,



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.

cc: Service List (by Email & First Class Mail)

**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.)
§§ 219a and 248, to install and operate a 500 kW)
group net-metered solar electric generation) CPG #16-0042-NMP
facility located on Orchard Road in Middletown)
Springs, Vermont, to be known as the "Orchard)
Road Solar Project")

CERTIFICATE OF SERVICE

I, Grace Grundhauser, certify that on August 9, 2018, I forwarded copies of Orchard Road Solar I, LLC's *Stipulated Motion to Stay Proceedings* and associated cover letter to the service list below by the delivery method noted:

By Email and First Class Mail:

Randy J. Miller, II, Esq.
Vermont Agency of Natural Resources
1 National Life Drive, Davis 2
Montpelier, VT 05620-3901

Ted & Dina Fitzpatrick
12525 Jot Em Down Lane
Odessa, FL 33556

Stephanie Hoffman, Esq.
Vermont Public Service Department
112 State Street, 3rd Floor
Montpelier, VT 05620-2601

Peter and Aileen Stevenson
97 Coy Hill Road
Middletown Springs, VT 05757

John E. Arsenaunt, Chairman
Middletown Springs Planning Commission
P.O. Box 1232
Middletown Springs, VT 05757

Karen L. Gutmann and Larry L. Springsteen
290 West Street
Middletown Springs, VT 05757

David P. Wright, President
Middletown Springs Historical Society, Inc.
10 Park Avenue, P.O. Box 1121
Middletown Springs, VT 05757

Douglas Freilich & Julie Sperling
PO Box 1041
Middletown Springs, VT 05757

Brooke Dingleline, Esq.
Valsangiacomo, Detora & McQuesten, P.C.
172 North Main Street
Barre, VT 05641
(for the Neighbors)

Elizabeth W. Cooper
49 Rocks and Trees Lane
P.O. Box 1011
Middletown Springs, VT 05757

Richard Spitalny
24 Tanglewild Road
Chappaqua, NY 10514

* Per his request to Applicant, Roy Cooper has been removed from Applicant's mailing list.

Dated at Burlington, Vermont this 9th day of August, 2018.

By:


Grace Grundhauser
Paralegal

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.)
§§ 219a and 248, to install and operate a 500 kW)
group net-metered solar electric generation) CPG #16-0042-NMP
facility located on Orchard Road in Middletown)
Springs, Vermont, to be known as the “Orchard)
Road Solar Project”)

ORCHARD ROAD SOLAR I, LLC
STIPULATED MOTION TO STAY PROCEEDINGS

Orchard Road Solar I, LLC (“ORS” or “Applicant”) hereby respectfully requests that the Public Utility Commission (the “Commission” or “PUC”) stay these proceedings until September 28, 2018 pending further discussions regarding the viability of relocating the proposed 500 kW solar group net-metering system project at Orchard Road in Middletown Springs, Vermont (the proposed "Project") to an alternate site. The undersigned counsel is authorized to state that the Agency of Natural Resources (“ANR”) and Richard Spitalny, Robert & Karen Galloway, Daniel McKeen, and Neil & Thomas Russell (“Neighbors”) consent to this motion. Counsel for the Neighbors has also advised that she has consulted with pro se neighbors Doug Freilich, Julie Sperling, Elizabeth Cooper, Karen Gutmann, Larry Springsteen, Ted and Dina Fitzpatrick, and Peter and Aileen Stevenson and they consent to this motion. Counsel for the Department of Public Service (“DPS”) has advised that he will be filing a separate response to this motion reflecting DPS’s consent.

In a July 20, 2018 Order Reopening the Evidentiary Record¹ (the “Order”), the PUC directed the Hearing Officer to reopen the record to develop new evidence regarding the suitability of the two proposed alternate sites for the proposed Project. Alternative Site 1 adjoins the Project

¹ ePUC Document No. 283044/16590

site and is alleged to be unsuitable for the Project due to existing ledge. *See* Order at 1 n. 1.

Alternative Site 2 is located across the road from the Project site and is alleged to be unsuitable for the Project due to the location of a Class II wetland located within that site. *Id.* The PUC requested that the parties “file testimony and exhibits with the Commission” regarding specific questions concerning the alternate site locations. *Id.* at 8-9. The PUC required such additional information to be produced no later than August 15, 2018 with objections, requests to cross-examine witnesses, and /or rebuttal of such evidence to be offered no later than September 12, 2018. *Id.* at 9.

ORS’s expert has conducted another survey of Alternative Site 2 and has confirmed the presence of the subject wetland. ORS is now in discussion with the ANR concerning the classification of this wetland as a Class II or Class III wetland. Due to the location of the wetland within the proposed site, such a determination has direct bearing on whether Alternative Site 2 is a viable option for the Project. Applicant has requested a site visit with ANR to review the wetland classification, and is awaiting further consultation with ANR and the Neighbors’ expert on this issue.

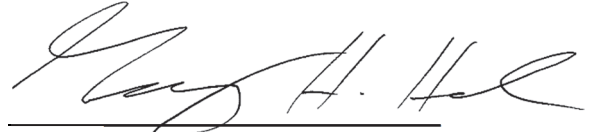
Accordingly, ORS needs additional time to allow for ANR to visit the site and for the post-visit discussions regarding the classification of the wetland. Pending the outcome of such discussions, and an evaluation of other potential issues associated with the alternative site, ORS may consider filing a revised application identifying Alternative Site 2 as the Project site. ORS thus respectfully requests that these proceedings be stayed until September 28, 2018. ORS will submit a report to the PUC one week prior to the September 28, 2018 deadline detailing whether there is a basis to continue the stay, including whether a revised application is anticipated, or in the alternative, will propose a revised schedule for this proceeding, so that review of this application can move forward.

CONCLUSION

For the reasons set forth above, ORS respectfully requests that the PUC grant ORS's Stipulated Motion to Stay Proceedings until September 28, 2018.

Dated this 9th day of August, 2018 in Burlington, Vermont.

By:



Geoffrey H. Hand, Esq.
Victoria M. Westgate, Esq.
Dunkiel Saunders Elliott Raubvogel & Hand
91 College Street
Burlington, VT 05401
gband@dunkielsaunders.com
(802) 860-1003 x 110