



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

30 November 2018 BY COURIER

RE: #16-0042-NMP Application of Orchard Road Solar I LLC
Filings of Russell Lattuca

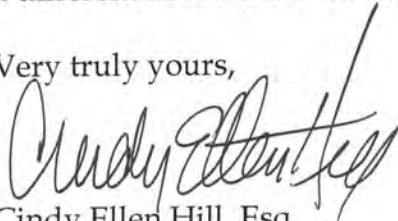
Dear Clerk Whitney,

Enclosed please find for filing relative to the above-reference action, two copies of each of the following items:

Notice of Appearance
Motion to Intervene/Notice of Intervention: Russell Lattuca
Comments and Request for Hearing
Motion to Migrate Case to ePUC
Certificate of Service

Please note that I took our service list from the Applicant's November 6, 2018 service list, although I substituted Attorney Wannop for Attorney Porter for the PSD. If there is a different list I should be using, please let me know.

Very truly yours,



Cindy Ellen Hill, Esq.

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 16-0042-NMP

Application of Orchard Road Solar I, LLC]
for a certificate of public good pursuant to]
30 VSA §219(a) and §248 for a 500kW interconnected]
group net-metered solar electric generation system]
in Middletown Springs, Vermont]

NOTICE OF APPEARANCE

I, Cindy Ellen Hill, Hill Attorney PLLC, do hereby enter my appearance as attorney for
intervenor Russell Lattuca in the above-captioned matter.

Dated at Middlebury Vermont this 30th day of November, 2018

/s/ Cindy Ellen Hill, Esq.

Cindy Ellen Hill, Esq.
Hill Attorney PLLC
144 Mead Lane
Middlebury VT 05753
802-458-4146

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**MOTION TO INTERVENE/NOTIFICATION of
ADJOINING LANDOWNER INTERVENTION:
RUSSELL LATTUCA**

Now comes RUSSELL LATTUCA of 623 Marbury Lane, Longboat Key, FL, 34228, by and through his attorney, and does hereby MOVE TO INTERVENE as of right pursuant to PUC Rule 2.209(A)(3), as he has a substantial interest that may be adversely affected by the outcome of the proceeding, or alternatively permissively under PUC Rule 2.209(B). Mr. Lattuca additionally NOTIFIES all parties of his intent to intervene as an adjoining landowner under PUC Rule 5.117(B)(3)(f)(7/1/17) should this Commission deem -- as would be appropriate -- that the 7/1/17 net metering rules are applicable to this proposed substantially revised project.

Mr. Lattuca is submitting Comments and Request for Hearing contemporaneously with this motion, which are incorporated herein by reference. Additionally, Mr. Lattuca states and summarizes as follows regarding the grounds for his intervention:

1. Mr. Lattuca owns real property located at 130 Orchard Road, Middletown Springs, Vermont, adjoining to the proposed project site. This property which adjoins

the proposed project site was his primary residence from his purchase of the property in 1991 until after 2003; work required his relocation of his primary residence to Florida, but he returns and resides in his Middletown Springs home regularly throughout the year, including during the holiday season when leaves are off the trees, and intends to return there as a full-time resident as soon as work or retirement permits.

2. Mr. Lattuca's residence and property presents a clear, direct view of the project site. The site is visible directly out his front windows, which is precisely the beautiful view which forms the heart of his Vermont home. The proposed new project site is also plainly visible from Orchard Road, a public Class 3 roadway. It is also visible from the Bartlett and Gaeckle residences, particularly during stick season. Given that the new location is also visible in many of the photographs contained in Mr. Lawrence's aesthetic report submitted earlier in this case, it is also highly likely that it is visible from locations along Route 140 and from additional residences both south-east and north of the project site, although the lack of viewshed analysis or photosimulations, and the limited time afforded to respond to this filing, have made this difficult to confirm without additional time being afforded for investigation and discovery.

3. Mr. Lattuca, and his friends and family who frequently visit his Middletown Springs home, utilize his property and neighboring unposted properties for hiking and hunting. Mr. Lattuca frequently walks the lanes of the area, including a regular walk up the hill on Orchard Road for the spectacular views of the surrounding rural scenery from the vicinity of the newly proposed project site. From his Orchard Road home, Mr. Lattuca enjoys viewing wildlife, including the significant number of deer traversing the

area between the deer yard surrounding his residence and adjoining parcels to the south of the proposed project site, and the stream which parallels the project site. Mr. Lattuca and his friends and family at his residence also frequently site bobcat traversing this field going to and from the stream.

4. Mr. Lattuca's residence and property are served by a well, which, on information and belief, is hydrologically connected to the stream which parallels the proposed new project site, and the wetland underlying the proposed new project site. Previous prefiled rebuttal testimony submitted by the applicant's witness Rod Viens presented evidence that the existing topography of the now-proposed project location was inappropriate for solar installation, and that grading would be required, but impractical due to the extent of bedrock. It was, admittedly, confusing as to which of the alternative sites Mr. Viens was referring with this; however, according to the Agency of Natural Resources' online interactive Natural Resource Atlas, toggled to 'bedrock outcrops', the now-proposed site is fully underlain by the very same bedrock outcrop that underlies the other potential alternative site, so it is difficult to ascertain why the concern would be different between the two potential alternative sites. Alteration of this hydrogeological context by blasting or removing bedrock related to a wetlands system is highly likely to affect the groundwater properties on an adjoining parcel -- that is, Mr. Lattuca's well.

Also according to the ANR NRA, the soils at this location are Hydrologic Group Class C; according to the USDA NRCS National Engineering Handbook, Part 630 Hydrology, such soils "have moderately high runoff potential when thoroughly wet."

However, "As a result of construction and other disturbances, the soil profile can be altered from its natural state and the listed group assignments generally no longer apply, nor can any supposition based on the natural soil be made that will accurately describe the hydrologic properties of the disturbed soil. In these circumstances, an onsite investigation should be made to determine the hydrologic soil group."

5. Mr. Lattuca's residence and property would be affected by impacts the proposed project would or is likely to have on the wetlands and stream traversing the project parcel. These wetlands and stream, and the wildlife associated with them, are visible from Mr. Lattuca's residence and property, and thus also contribute to the character of the aesthetics of the view. Mr. Lattuca further view these wetlands and wildlife when walking for pleasure and exercise on roads close to his home.

6. Mr. Lattuca is affected by the patterns of development in his community, and the effect of this project on future development, including this project's lack of compliance with the Town Plan and Regional Plan.

7. As utility customers of GMP on the same distribution circuit as the proposed project, Mr. Lattuca will be affected by the safety and reliability of the project's interconnection, and by any impacts to his electric service from the load the project will place on the substation. GMP's "Solar Map" indicates that the distribution lines affiliated with this location are "orange" -- a new designation on the solar map which GMP states means "Due to system limitations, interconnections on this circuit may experience higher costs and delayed interconnections." The project failed Criterion #3 of the

FastTrack, but on information and belief, the Applicant has not filed any additional information regarding how the project will resolve this FastTrack failure.

8. The quality of Mr. Lattuca's neighborhood and community would be diminished by impacts of the project on historic structures, archaeological resources, and prime agricultural soils. According to the Agency of Natural Resources' online interactive Natural Resource Atlas, the proposed project is underlain completely by prime agricultural soils. Mr. Lattuca's residence is affiliated with a historic 1920's barn, and the newly proposed project site includes the location of a historic school, noted on the Beers Atlas, the former location of which is visible on Google Earth images.

9. As an adjoining landowner in close proximity to the project, Mr. Lattuca would be directly affected by noise, traffic and dust relative to construction. Orchard Road is a dirt Class III public roadway with a 24,000 pound (state standard) weight limit. Damage to this road during construction or through drainage changes affiliated with the project would affect Mr. Lattuca's, and other neighbors', ingress and egress to their properties as well as recreational experiences like walking and biking on these country roads.

10. A significant component of Mr. Lattuca's property value, both in terms of economic value and in terms of intangible enjoyment of property, relates to the view, and more specifically the view looking out his front windows and from his dooryard. This proposed project location will diminish the value of his property without compensation in violation of his due process and property rights under the Vermont and US Constitutions.

Mr. Lattuca at this time accordingly seeks intervention on the following §248 criteria:

30 VSA 248(b)(1) orderly development

30 VSA 248(b)(3) system stability and reliability

30 VSA 248(b)(4) economic benefit to the State and its residents

30 VSA 248(b)(5) regarding esthetics, historic sites, the natural environment, the use of natural resources, and public health and safety

10 VSA 6086(a)(1) (E) Streams and (G) Wetlands

10 VSA 6086(a)

(3) unreasonable burden on existing water supply

(4) unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

(5) unreasonable congestion or unsafe conditions with respect to use of highways;

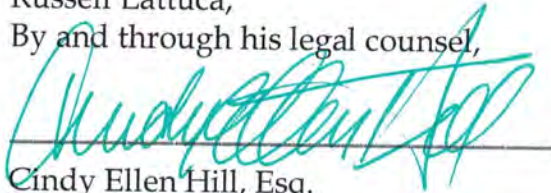
(7) unreasonable burden on the ability of local governments to provide municipal or governmental services;

(8) undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

Mr. Lattuca reserve the right to SUPPLEMENT and AMEND this Motion to Intervene, and the list of Criteria for which he seeks intervention status, and request that he be permitted to so supplement and amend this Motion to Intervene until whatever deadline may be set for filing of interventions in this matter, subject to further amendment should good cause arise to do so after said deadline.

Dated at Middlebury Vermont this 30th day of November 2018.

Russell Lattuca,
By and through his legal counsel,



Cindy Ellen Hill, Esq.
Hill Attorney PLLC
144 Mead Lane
Middlebury VT 05753
802-458-4146

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MOTION TO MIGRATE CASE TO ePUC

Now comes intervenor Russell Lattuca and does hereby Move this honorable Commission to migrate this legacy case to ePUC in the interests of justice and judicial efficiency.

In support of this Motion, Mr. Lattuca states that this case is a 'legacy' case, initially filed in 2016. However, by Order of 7/20/2018, the evidentiary record in this case was re-opened, leading to the filing, on 11/6/2018, of a substantially new site plan for the project, at a wholly new location on the project parcel. The Hearing Officer set a deadline of 11/30/2018 for comments and intervention motions in regards to that new filing.

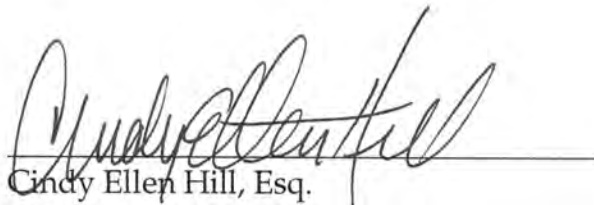
The re-opening of the evidentiary record, and the filing of a substantially new site plan, has effectively re-set this case back to the initial comments phase. Unless the Hearing Officer swiftly determines that the Application should be deemed withdrawn, as requested in contemporaneous filings, there are likely to be a significant number of additional filings going forward. With a service list of a dozen people plus multiple copies to the Commission, this requires significant expense and delay which would be

unnecessary were the case moved to ePUC. Additionally, since virtually none of the previous filings are posted on the Legacy site for this case, it is extremely difficult for anyone commenting on the new project site to access the record to date. The Town of Middletown Springs has been courteous in posting many of the filings on their website, but that record is neither complete nor official. One could not, for example, include the links to exhibits in any hearings or briefings as one does with ePUC records.

Going forward, utilizing ePUC would make the process in this case far more cost- and time-efficient for all involved.

Accordingly, this case should be migrated to ePUC.

Dated at Middlebury VT this 30th day of November, 2018.



Cindy Ellen Hill, Esq.
Hill Attorney PLLC
144 Mead Lane
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CERTIFICATE OF SERVICE

I, Cindy Ellen Hill, counsel for intervenor Russell Lattuca in the above captioned matter, do hereby certify that I served the following:

NOTICE OF APPEARANCE
MOTION TO INTERVENE/NOTICE OF INTERVENTION RUSSELL LATTUCA
COMMENTS AND REQUEST FOR HEARING
MOTION TO MOVE CASE TO ePUC

upon the parties of record by mailing copies of same, first class postage prepaid, this date to the following:¹

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

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

Attorney Alison Wannop
Vermont Public Service Department
112 State Street 3rd Floor
Montpelier VT 05620-2601

Brooke Dingledine, Esq.
Valsangiacamo, Detora and McQuestion
172 North Main St.
Barre VT 05641

John E. Arsenault, Chair
Middletown Springs Planning
Commission
PO Box 1232
Middletown Springs VT 05757

Ted and Dina Fitzpatrick
12525 Jot Em Down Lane
Odessa FL 33556

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

¹ This service list was duplicated from the Applicant's of November 6, 2018, with the substitution of Attorney Wannop for DPS.

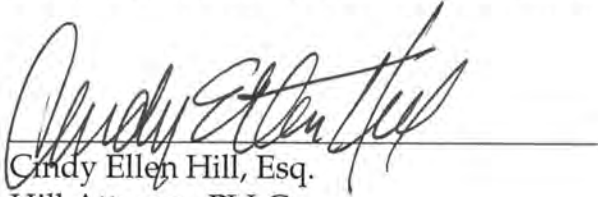
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Chappaqua NY 10514

Dated at Middlebury Vermont this 30th day of November, 2018

A handwritten signature in cursive script, appearing to read "Cindy Ellen Hill", is written over a horizontal line.

Cindy Ellen Hill, Esq.
Hill Attorney PLLC
144 Mead Lane
Middlebury VT 05753
802-458-4146