

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of Thetford Post Mills Solar LLC to
extend the commissioning deadline in Case
No. 20-2640-NMP

Case No. 23-____-PET

VERIFIED PETITION TO EXTEND CPG COMMISSIONING DATE

Thetford Post Mills Solar LLC (“TPMS”) hereby requests that the Vermont Public Utility Commission (the “Commission”) extend the commissioning deadline for the 500 kW solar net-metered system approved in Case No. 20-2640-NMP, located at 7412 VT Route 13 in Thetford, Vermont (the “Project”), from February 2, 2024, until February 7, 2025.

Background

1. TPMS received a certificate of public good for the Project on February 3, 2022, in Case No. 21-3484-NMP. The Project’s commissioning deadline was extended until February 2, 2024, in Case No. 22-5278-PET.
2. The Project will be located on the site of a closed landfill that is managed by the Waste Management and Prevention Division of the Vermont Department of Environmental Conservation (“DEC”).
3. As explained in the CPG petition materials, Green Mountain Economic Development Corporation (“GMEDC”) is a prospective purchaser of the landfill, and TPMS will be leasing the Project site from GMEDC. Before the underlying petition was filed, GMEDC enrolled the landfill parcel into the DEC Brownfield Reuse and Environmental Liability Limitation (“BRELLA”) Program to secure certain liability protections. *See* Case No. 20-2640-NMP, McBride pf. at 12.

4. GMEDC will not take title to the landfill until it finishes working through the BRELLA Program and receives a certificate of completion (“COC”) under the Program providing said liability protections. Consequently, Project construction cannot commence until after the COC is issued.

5. As a prospective tenant, TPMS does not control the timeline for GMEDC to complete the BRELLA process or the time it will take for DEC to issue the COC.

6. TPMS has been diligently and in good faith pursuing development of the Project since the CPG was issued, despite challenges and delays outside of its control.

7. At the time TPMS filed its CPG petition, it was not anticipated that the BRELLA process would take as long as it has. TPMS understands that GMEDC has encountered unanticipated delays for the site investigation and potential remediation work, including a sampling fault at one of the labs used during the site investigation that required additional time for a second round of sampling and testing. The DEC review timeline to define ongoing ownership obligations for monitoring the landfill has also prolonged the process.

8. To date, GMEDC has completed the following site work in an effort to complete the BRELLA process:

- a. Phase I Environmental Site Assessment – Completed December 2020.
- b. Phase II Workplan – Completed August 2021.
- c. Phase II Environmental Site Assessment – Completed November 2023.

9. In November 2023, DEC indicated it would not require an Evaluation of Corrective Action Alternatives or a Corrective Action Plan for this site. GMEDC and DEC are working to clarify ongoing testing/monitoring obligations on the part of the owner and establish

next steps for the issuance of the COC. GMEDC hopes to have this completed during the first quarter of 2024.

10. DEC has advised that there may need to be further work completed to address post-closure usage of the site, but that will not be fully understood until after the meetings anticipated to occur during the first quarter of 2024 and after the issuance of the COC. GMEDC cannot rule out the possibility of further delays as it continues to work through the BRELLA process with DEC.

11. GMEDC will take title to the landfill after it completes this remaining work, obtains the COC, and resolves potential issues involving post-closure usage of the site.

12. After the COC is issued and GMEDC takes title to the land, TPMS will be in a position to place equipment orders, work with interconnection lead times, and complete financing matters, after which it will then be able to commence construction.

13. An extension until February 7, 2025, is expected to provide sufficient time for GMEDC to complete the BRELLA process and for TPMS to construct and commission the Project.

14. For the reasons set forth above, TPMS requests that the PUC extend the commissioning deadline for the Project from February 2, 2024, until February 7, 2025.

Discussion

15. The Commission may grant an extension of time to commission a net-metering project “upon written request and for good cause shown.” Rule 5.110(C).

16. “The Commission has found good cause to grant requests for extensions when they are timely filed and when the CPG holder has shown that the need for an extension has

arisen from circumstances outside of the CPG holder’s control.” *Request of Middle Road Solar LLC*, Case No. 19-4688-PET, Order of 02/27/21 at 4.

17. The Commission has recognized that “the redevelopment of brownfield sites as renewable energy facilities can present unanticipated challenges” that can support extending commissioning deadlines. *Request of Vermont Public Power Supply Authority to amend standard-offer contracts*, Docket No. 8830, Order of 11/22/17 at 3; *see also Petition of Wallingford Solar LLC*, Case No. 19-4603-PET, Order of 12/13/19 at 4 (recognizing that “the Commission supports the reuse of brownfields for siting renewable energy projects and acknowledges that such sites may often present challenges that slow construction”).

18. On multiple occasions the Commission has granted extensions where state- or municipal-level permitting delays prevented timely construction of a project. *See, e.g., Request of BB Solar LLC*, Case No. 19-3074-PET, Order of 08/20/19 at 2 (granting motion to extend where project faced municipal permitting delays outside its control); *Request of John Hauenstein to extend CPG*, Case No. 19-1006-PET, Order of 5/2/19 at 1 (finding good cause to grant extension on account of delays in receiving zoning permit and highway access permit from the Town of Charlotte); *Petition of BDE Cabot Lazar Solar, LLC*, CPG No. 16-0057-NMP, Order of 11/2/17 at 1-2 (authorizing ten-month extension to account for delays in receiving environmental permits as well as confirmation from ANR that certain CPG conditions had been satisfied).

19. This precedent supports granting the proposed extension here. Project construction has been delayed by the investigation and remediation process required by the BRELLA Program that GMEDC is pursuing to secure liability protections. These delays could

not be anticipated when the CPG petition was filed. TPMS cannot control the timeline for completing this regulatory process.


20. Given the precedent outlined above, the lack of control TPMS has over the BRELLA process, and TPMS's efforts to pursue the Project's development, TPMS respectfully submits that there is good cause for the Commission to extend the commissioning deadline for the Project.

21. For the reasons set forth above, TPMS requests that the Commission extend the commissioning deadline for the Project from February 2, 2024, until February 7, 2025.

Dated at Burlington, Vermont, this 19th day of December, 2023.

Thetford Post Mills Solar LLC

By its attorneys,



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VERIFICATION PAGE FOLLOWS

VERIFICATION OF PETITION

I, Troy McBride, verify that the facts stated in the foregoing Petition to Extend CPG Commissioning Date are true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I may be subject to sanctions by the Commission pursuant to 30 V.S.A. § 30.

Date: December 19, 2023



Troy McBride
Chief Technology Officer
Norwich Technologies, Inc.,
Sole member of Thetford Post Mills Solar LLC