STATE OF VERMONT
PUBLIC SERVICE BOARD

CPG #NM-1621

Application of Champlain Orchards for a certificate of public good for an interconnected net-metered photovoltaic electrical power system	))))

Order entered: 10/26/2011

I. INTRODUCTION

This case involves an application filed by Champlain Orchards ("Applicant"), on August 22, 2011, requesting a certificate of public good ("CPG"), pursuant to 30 V.S.A. §§ 219a and 248 and Vermont Public Service Board ("Board") Rule 5.100, for a net metering system. The net metering system consists of a photovoltaic system.

Notice of the application has been sent to all parties as specified in the Board's Rule 5.100. The notice stated that any party wishing to submit comments or request a hearing in this matter needed to file comments with the Board within thirty (30) working days of the date that the notice of the application was sent.

On August 26, 2011, John and Linda Lass filed comments on the proposed project.

On September 2, 2011, Central Vermont Public Service Corporation ("CVPS") filed comments on the proposed project. CVPS asserts that the proposed project's size has the potential to cause voltage disturbances that exceed CVPS's accepted maximum threshold. Therefore, CVPS requests the opportunity to consult with the Applicant potential solutions or to request a hearing.

On September 2, 2011, AllEarth Renewables ("AllEarth"), the proposed project's installer, e-mailed an updated Section 4 of the application. The update proposes to reduce the system size in order to avoid the voltage disturbances described by CVPS.

On September 6, 2011, CVPS filed additional comments on the proposed project. CVPS represents that the proposed reduction in size of the project should not result in adverse effects on the CVPS electric system.

On September 27, 2011, AllEarth filed comments in response to the Lasses' filing.

On October 17, 2011, AllEarth filed additional comments. AllEarth represents that with the decrease in system size, CVPS no longer objects to the proposed project.

No other comments have been received from any other parties or interested persons.

The Board has reviewed the application and accompanying documents and agrees that, pursuant to 30 V.S.A. §§ 219a and 248 and the Board's Rule 5.100, a CPG should be issued without further investigation or hearing.

II. FINDINGS

Based upon the application and its accompanying documents, the Board makes the following findings in this matter.

1. The proposed net metering project will be on property owned by the Applicant and located at 3597 Route 74 West in Shoreham, Vermont. Application at Section 1.

2. The proposed net metering facility is to be erected on a new structure. Application at Section 4.

3. The proposed project consists of a photovoltaic electrical generation system with a system-rated output of 55.86 kW AC[1]. The facility will be interconnected with the CVPS electrical distribution system. Application at Section 4 and attachment.

4. Applicant has certified that the project is in compliance with all of the provisions of Sections 3 and 8 of the application. Based on these submissions, we conclude that the project does not raise a significant issue with respect to the environmental criteria of 30 V.S.A. § 248. Application at Sections 3 and 8.

5. Applicant has certified compliance with the insurance requirements as set forth in Section 3 of the application. Application at Section 3.

III. DISCUSSION AND CONCLUSION

The Board has received comments from John and Linda Lass, neighbors to the proposed project site, regarding the impacts of the proposed project on the surrounding area. Board Rule 5.109(A) provides that the Board may hold a hearing for a net metering system when it

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1. The original application was for a project with a system-rated capacity of 95.76 kW AC. The project size has been reduced to 58.86 kW AC in response to the concerns of CVPS.

determines that the system raises a substantive issue with respect to one or more of the criteria of 30 V.S.A. § 248. Pursuant to the Board's Order of April 19, 1999, in PSB Docket No. 6181, *"Investigation into the Use of a Net Metering System for the Purchase and Sale of Electricity from Small Electrical Generating Systems to and from Electric Companies,"* parties with objections or concerns must make a showing that the application raises a significant issue with respect to one or more substantive criteria applicable to the proposed net metering system. Accordingly, the Net Metering Application Form states that persons requesting a hearing regarding a net metering project "must make a showing that the application raises a significant issue regarding one or more of the substantive criteria applicable to the proposed net metering system."[2] For the reasons set forth below, we conclude that the Lasses have not shown that the project raises a significant issue with respect to the applicable criteria.

The Lasses state that they are concerned about possible glare or reflection from the proposed system to their property, and request that an impartial glare or reflection study be done. The Lasses also request that the Board convene a hearing in the event that a hearing is required for the study.

AllEarth represents that the dual-axis trackers remain perpendicular to the sun throughout the day, which results in no glare from these systems. AllEarth adds that the proposed project has been reduced in size to accommodate the concerns of CVPS, which should also reduce the appearance of the project.

The Board's net-metering rule sets forth the following analytical process for determining whether a project will have an undue adverse impact on aesthetics and scenic or natural beauty:

> **5.108 <u>Aesthetic Evaluation of Net Metered Projects</u>**
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> (A) The Board has adopted the Vermont Environmental Board's Quechee analysis for guidance in assessing the aesthetic impacts of net metered projects, including wind turbines. In determining whether a project raises a significant issue with respect to aesthetic criteria contained in 30 V.S.A. 248(b)(5), the Board is guided by the two-part test outlined below:
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> 1. First a determination must be made as to whether a project will have an adverse impact on aesthetics and the scenic and natural beauty. In order to find that it will have an adverse impact, a project must be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the

2. State of Vermont Public Service Board Application for a Certificate of Public Good for Interconnected Net Metered Power Systems, at 1.

suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.

2. The next step in the two-part test, once a conclusion as to the adverse effect of the project has been reached, is to determine whether the adverse effect of the project is "undue." The adverse effect is considered undue when a positive finding is reached regarding any one of the following factors:

a. Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic beauty of the area?

b. Have the applicants failed to take generally available mitigating steps which a reasonable person would take to improve the harmony of the project with its surroundings?

c. Does the project offend the sensibilities of the average person? Is it offensive or shocking because it is out of character with its surroundings or significantly diminishes the scenic qualities of the area?

3. Analysis of whether a particular project will have an "undue" adverse effect on aesthetics and scenic or natural beauty is also significantly informed by the overall societal benefits of the project.

In addition to the Quechee analysis, the Board's consideration of aesthetics under Section 248 is "significantly informed by overall societal benefits of the project."[3]

The Lasses' concerns do no relate to aesthetic impacts generally, but are specific to the issue of glare. The use of a solar tracking array, that maintains a perpendicular angle to the sun, will minimize any potential impacts related to glare from the project. Thus, we conclude that the Lasses have not shown that the project is out of character with its surroundings and, consequently, have not shown that the project raises a significant issue with respect to adverse aesthetic impacts pursuant to § 248(b)(5).[4] However, we conclude that a condition based on the installer's assertion that the project will not produce excessive glare should be added to the CPG to ensure that glare is not an issue in this case.

Consequently, because we find that the comments have not shown that the project raises a significant issue with respect to the substantive criteria of 30 V.S.A. § 248, further proceedings, including hearings or a glare or reflection study, in this matter are unnecessary.

Based upon the findings and evidence, the proposed net metering project will be in compliance with the requirements of the Board's Order in Docket No. 6181 and Rule 5.100, the application does not raise a significant issue with respect to the substantive criteria of

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3. *In Re: Northern Loop Project*, Docket 6792, Order of 7/17/03 at 28 ("Northern Loop").

4. Because the comments have not shown that the project raises a significant issue under the first step of the Quechee analysis, there is no need to continue to the second prong of the analysis that would have examined possible mitigation measures including alternative locations for siting the project.

30 V.S.A. § 248, and the proposed project will promote the general good of the State.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that the proposed photovoltaic net metering system, in accordance with the evidence and plans submitted in this proceeding, will promote the general good of the State of Vermont pursuant to 30 V.S.A. § 219a, and a certificate of public good to that effect shall be issued in this matter, pursuant to 30 V.S.A. §§ 219a and 248.

DATED at Montpelier, Vermont, this 26th day of October, 2011.

s/ James Volz	)	
	)	PUBLIC SERVICE
	)	
s/ David C. Coen	)	BOARD
	)	
	)	OF VERMONT
s/ John D. Burke	)	

OFFICE OF THE CLERK

Filed: October 26, 2011

Attest: s/ Judith C. Whitney
Deputy Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

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