

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

Docket No. 2019-02

Application of Chinook Solar, LLC for a Certificate of Site and Facility

**TOWN OF FITZWILLIAM'S ASSENTED-TO
MOTION TO CONTINUE
PRE-FILED TESTIMONY AND RELATED DEADLINES**

The Town of Fitzwilliam, by and through its counsel, BCM Environmental & Land Law, PLLC, respectfully requests an extension of deadlines, and states as follows in support:

1. The pertinent procedural history is as follows: (1) October 18, 2019, application filed; (2) November 8, 2019, Subcommittee appointed; (3) December 17, 2019, Subcommittee accepted the application; (4) February 5, 2020, Town's intervention granted without limitation; (5) April 2, 2020, procedural schedule issued; (6) June 2, 2020, revised procedural schedule issued; (7) June 25, 2020, notice issued of adjudicative hearings beginning September 10, 2020.

2. The novel coronavirus pandemic developed in early 2020, including a stay-at-home order from March 27 through to June 15, plus other major changes affecting all facets of society.

3. As is customary in these proceedings, the Town and the Applicant have been negotiating a Memorandum of Understanding (MOU) and a Payment in Lieu of Taxes (PILOT).

4. Despite diligence, the pandemic has delayed negotiations such that they will not be completed in advance of the deadline for the Town to file its pre-filed testimony, though negotiations have been productive and are nearly complete.

5. The content of the Town's pre-filed testimony necessarily depends upon the outcome of completed negotiations.

6. As such, to preserve its right to file pre-filed testimony that accurately represents its positions following completion of negotiations, the Town requests the new timeframes set forward

in this Motion.

7. Additionally, based on input from counsel for the Applicant and the Counsel for the Public (CFP) indicating their desire to keep the process as streamlined as possible by keeping the Town's and CFP's deadlines the same, the Town also respectfully requests that these new timeframes apply also for CFP and the Applicant, as noted below.

8. Accordingly, the Town requests the following timeframe:

- a. The Town's and CFP's deadline to file pre-filed testimony be extended until July 31, 2020.
- b. The date by which the Applicant may submit data requests to the Town and CFP be extended from July 13 to August 7;
- c. The date by which the Town and CFP shall respond to any data requests be extended from July 24 to August 14;
- d. The date by which the technical session with the Town's and CFP's witnesses shall occur be extended from no later than July 30 to no later than August 21;
- e. The date by which parties may file supplemental pre-filed testimony be extended from August 10 to August 28;
- f. The date by which parties may file statements of stipulated facts and any other stipulations extended from August 28 to September 4; and
- g. The day by which the final prehearing conference shall occur extended from no later than September 2 to September 3 or 4.

9. The SEC, whether by its chair or as the appointed Subcommittee as a whole, is charged with conducting this matter in an efficient and orderly manner. RSA 162-H:10, I-a, VI, and VII; Site 202.02, 16, 17. Extending deadlines is efficient because the Town cannot now know its position and therefore may be put in the situation of needing to file corrective pleadings.

10. Given that this request does not include any adjustments to the adjudicative hearings set to commence on September 10, the request comports with the purpose set forth in RSA 162-H:1 to evaluate projects without undue delay.

11. Moreover, as indicated by its intervention having been granted without limitation, the position of the Town is important to the adjudication of this application. As noted in the order granting intervention, “[p]articipation of local municipalities is consistent with RSA 162-H:16, IV(b).” Further, the “statute requires that the Subcommittee consider [municipal views] when considering the impact of a project on the orderly development of the region.”

12. The order also noted that “RSA 541-A:39, I, requires an agency to give notice to and afford all affected municipalities a reasonable opportunity to submit data, views or comments regarding the issuance of a permit ... within its boundaries that directly affect the municipality.” To that point, delays caused by the pandemic are out of the Town’s control and it would not be giving the Town a reasonable opportunity without the additional time requested in this Motion.

13. Undersigned counsel for the Town has obtained concurrence with the relief sought from counsel for the Applicant and Counsel for the Public. Site 202.14(d).

WHEREFORE, the Town of Fitzwilliam respectfully requests that the Site Evaluation Committee:

- A. Grant this motion; and
- B. Grant such other and further relief as may be just.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of July, 2020, a copy of the foregoing Motion to Extend was sent by electronic mail to persons named on the Service List of this docket.



Amy Manzelli, Esq.