

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2019-02**

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

**August 5, 2020**

**ORDER ON THE TOWN OF FITZWILLIAM'S ASSENTED-TO MOTION TO  
CONTINUE PREFILED TESTIMONY AND RELATED DEADLINES  
AND ORDER AMENDING PROCEDURAL SCHEDULE**

This order grants in part and denies in part the assented-to motion to extend the deadline for prefiling direct testimony and related deadlines submitted by the Town of Fitzwilliam (Town). The order also amends the procedural schedule.

**I. Background**

On April 2, 2020, the Presiding Officer issued a Procedural Order requiring Counsel for the Public and the Town to submit prefiled direct testimony no later than June 2, 2020. The Procedural Order also scheduled an adjudicative hearing to begin on or about September 9, 2020, subject to the availability of the Subcommittee.

On April 17, 2020, Counsel for the Public filed an assented to motion to extend the deadline for submitting prefiled testimony. Counsel for the Public's motion was granted on May 5, 2020, and following a status conference, an Order and Revised Procedural Schedule was issued on June 2, 2020. The revised procedural schedule extended the deadline for Counsel for the Public and the Town to submit prefiled testimony until July 2, 2020.

On June 29, 2020, Counsel for the Public filed a further motion to extend the deadline for prefiled testimony, data requests from the Applicant, and responses to Applicant's data requests. On July 2, 2020, an Order was issued requiring Counsel for the Public to submit prefiled testimony no later than July 8, 2020. The Applicant was required to submit data requests no later than July 17, 2020, and Counsel for the Public and the Town were required to respond to those

data requests no later than July 28, 2020.

On July 2, 2020, the Town filed the instant motion seeking to again continue the prefiled testimony and other procedural deadlines. On July 31, 2020, a conference call was scheduled by the Administrator and was attended by all parties. The Administrator was informed that negotiations over several matters continue between the Town and the Applicant. The Applicant, the Town, and Counsel for the Public agreed that the deadline for filing supplemental testimony on all issues should be extended to August 17, 2020. The parties also agreed that, if necessary, the Town may file its direct testimony of witnesses no later than that date.

## **II. Positions of the Parties**

The Town and the Applicant reported that negotiations are ongoing in order to prepare a memorandum of understanding (MOU). The Town and the Applicant are also negotiating an agreement for a payment in lieu of taxes (PILOT). The Town reported that the COVID-19 pandemic has caused delays in the ability of the parties to complete negotiations. All parties agreed that an extension of the supplemental testimony deadline would benefit the parties and would not require a continuance of the adjudicative hearing.

## **III. Analysis**

On June 25, 2020, a Notice of Adjudicative Hearing was issued in this docket. The adjudicative hearing is scheduled to begin on September 10, 2020, and is scheduled over various days through September 25. Since the issuance of the procedural schedule on April 2, 2020, the parties have been on notice that the adjudicative hearing was to commence on or around September 9, 2020.

The Town is an important party in this proceeding. Throughout this proceeding, the Town has received appropriate and timely notice and ample opportunity to prepare and to present its views with respect to the Application. The COVID-19 pandemic is disruptive. However, the schedule suggested in the Town's motion would disrupt the orderly conduct of proceedings.

The Subcommittee is statutorily required to issue a final decision on an application within 365-days of acceptance of an application. The Subcommittee issued an Order accepting the application as complete on December 17, 2019.

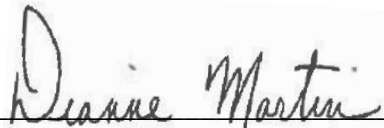
RSA 162-H:1, provides that undue delay in the construction of new energy facilities should be avoided. Nothing prohibits the parties from concurrently negotiating a settlement while preparing for the adjudicative proceeding. The specific relief requested in the Town's motion is denied. However, the motion is granted to the extent that the procedural schedule is amended as follows:

1. The deadline for filing supplemental testimony on all issues for all parties is extended to **August 17, 2020**;
2. The Town may file direct testimony, if necessary, no later than **August 17, 2020**;
3. The deadline to file stipulated facts is extended until **September 4, 2020**; and
4. The parties shall notify the Administrator as soon as possible should they seek mediation of any outstanding issues.

The final prehearing conference presently scheduled for September 2, 2020, shall proceed as scheduled. The adjudicative hearing will commence as scheduled on September 10, 2020.

Further continuances or extensions of deadlines are to be avoided as they will impair the ability of the Subcommittee to sufficiently review the Application, and the supplemental testimony and reports.

SO ORDERED this fifth day of August 2020.

  
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Dianne Martin, Presiding Officer  
Site Evaluation Committee