

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
: :
A PETITION OF SOLARCITY CORPORATION : PETITION NO. ____
TO APPROVE BY DECLARATORY RULING :
THE CONSTRUCTION AND OPERATION OF :
A SOLAR PHOTOVOLTAIC ELECTRIC :
GENERATING FACILITY AT 7 GRACE WAY, :
NORTH CANAAN, CONNECTICUT : JUNE 15, 2016

PETITION FOR A DECLARATORY RULING:
INSTALLATION HAVING NO
SUBSTANTIAL ADVERSE ENVIRONMENTAL EFFECT

I. Introduction

Pursuant to Section 16-50k(a) of the Connecticut General Statutes (“C.G.S.”) and Sections 16-50j-38 et seq. of the Regulations of Connecticut State Agencies (“R.C.S.A.”), SolarCity Corporation (“SolarCity”) hereby petitions the Connecticut Siting Council (“Council”) to approve, by declaratory ruling, the proposed construction and operation of an approximately 2.8 megawatt (“MW”) solar photovoltaic (“SPV”) electric generating facility (the “Facility”) on a 77.1 acre parcel located at 7 Grace Way in North Canaan, Connecticut (the “Property”). The Property is owned by Becton, Dickinson & Company (“BD&C”) and is occupied by a 387,000 square foot medical products manufacturing, distribution and warehouse facility. The Facility will consist of a mix of ground-mounted (approximately 2.28 MW) and roof-mounted (approximately 0.52 MW) racking system arrays.

Connecticut General Stat. § 16-50k(a) provides that:

Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling...(B) the construction or location ... of any customer-side

distributed resources project or facility or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as such project meets air and water quality standards of the Department of Energy and Environmental Protection....

As discussed more fully below, SolarCity respectfully submits that the Facility constitutes a grid-side distributed resources facility, meets air and water quality standards of the Connecticut Department of Energy and Environmental Protection (“DEEP”), satisfies the criteria of C.G.S. Section 16-50k(a) and will not have a substantial adverse environmental effect.

II. Petitioner

SolarCity is a Delaware Corporation with a local office at 714 Brook Street, Rocky Hill, Connecticut. SolarCity was established in 2006 and has quickly become the largest provider of solar power in the United States. SolarCity makes clean energy available to homeowners, businesses, schools and government organizations at lower cost. SolarCity has successfully secured Council approval for the development of grid-side solar generating facilities, most recently in Groton, Norwich and Rocky Hill, Connecticut.¹

Correspondence and/or communication regarding this petition should be addressed to:

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A copy of all such correspondence and/or communications should also be sent to the petitioners’ attorneys:

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¹ See generally Siting Council Petition Nos. 1181, 1192, 1195 and 1223.

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III. Background

SolarCity has entered into a Solar Power Purchase Agreement (“PPA”) with BD&C. Under the terms of the PPA, SolarCity will construct, maintain and operate an approximately 2.8 MW solar photovoltaic electric generating facility on the Property (approximately 2.28 MW of ground-mounted SPV arrays and approximately 0.52 MW of roof-mounted SPV arrays). All of the power generated at the Facility will be purchased by BD&C, satisfying approximately 7% of its overall electric load. Under the terms of the PPA, all environmental attributes and environmental incentives associated with the Facility will be retained by SolarCity.

IV. Property Description

The Property is located in the southwest portion of North Canaan, Connecticut in the Town’s Industrial (I) zone district and is surrounded by an existing industrial use to the north; an existing electric transmission line corridor and the Northwest Connecticut Rod and Gun Club property to the south; an active rail line and low density residential development to the west; and a residential parcel, Route 7 and undeveloped land to the east. The BD&C manufacturing, warehousing and distribution facility and associated parking and loading areas occupy approximately 25 acres in the northerly portion of the Property, immediately south of Grace Way. A single rail spur extends from the rail line on the western edge of the Property, to and along the south side of the BD&C building. The remainder of the Property is undeveloped and wooded.

All-Points Technology Corp. (“APT”) identified and evaluated three (3) wetland areas on the Property.

Wetland 1 is a broad and complex wetland area located in the western portion of the Property. Wetland 1 is the northern portion of a wetland system associated with Robbins Swamp. Wetland 1 on the Property is bisected by the existing rail spur entering the Property from the west. Wetland 2 is a small isolated forested wetland pocket to the east of Wetland 1 and south of the existing rail spur. Wetland 3 consists of two depressional wetland pockets in the southeast corner of the Property adjacent to Route 7. (See Attachment 1 – Existing Conditions Map).

In addition to its wetlands review and evaluation, APT conducted an extensive vernal pool survey on the Property. Within the three (3) on-site wetland areas five (5) vernal pools were identified. Four of the five vernal pools are embedded in Wetland 1. The fifth vernal pool is embedded in Wetland 3. A more complete description of these on-site wetland and vernal pool resources is included in the APT Environmental Assessment (“EA”) included in Attachment 2.

V. Project Description

Initially, SolarCity and BD&C envisioned the development of a 3.9 MW ground-mounted SPV power generating facility, encumbering an approximately 15.5 acre portion of the Property. Due to the presence of on-site wetlands and vernal pool areas, and the potential for impacts to these important resources, SolarCity, in cooperation with BD&C, reduced, from 15.5 acres to 9.35 acres, the size of the area required to construct the Facility. In an effort to maintain as much of the Facility’s generating capacity as possible, following the reduction in size of the ground based SPV areas, SolarCity and BD&C agreed to incorporate a roof-mounted array into the Facility design.

The 2.8 MW Facility is comprised of two (2) ground-mounted SPV arrays and one (1) roof-mounted SPV array. The larger of the two ground-mounted arrays would require the

clearing of an approximately 8.05 acre portion of the Property and is located to the southwest of the BD&C building. A smaller ground-mounted array would require the clearing of an approximately 1.3 acre portion of the Property, and is located immediately south of the BD&C building. The ground-mounted arrays will produce approximately 2.28 of the 2.8 MW of electricity from the Facility. A roof-mounted SPV array, covering approximately 14,667 square feet of the BD&C roof and producing approximately 0.52 MW of electricity, would be installed on the western portion of the BD&C building². Access to the Property and the Facility will extend from Grace Way along existing paved driveways and parking areas. Project plans for the proposed Facility are included in Attachment 3.

Overall, SolarCity intends to install approximately 7,660 SPV modules in the ground-mounted arrays and 1,700 SPV modules on the roof of the building. An electric interconnect service line will extend, underground from the ground based arrays to the BD&C building. The roof mounted elements will tie directly into the building.

The ground mounted SPV array will utilize a post-driven RBI Solar Inc. panel racking system. The individual photovoltaic panels will be fixed at a 25 degree tilt to the south to promote maximum efficiency. The two ground-mounted arrays will be surrounded by an eight (8) foot security fence. (*See Attachment 3*).

SolarCity expects construction of the Facility to take approximately three (3) to four (4) months. Construction will commence immediately after SolarCity receives all necessary permits and approvals.

VI. The Facility Will Comply with the Department of Energy and Environmental Protection (DEEP) Air and Water Quality Standards and Will Not Have a Substantial Adverse Effect on the Environment

² Due to the location of existing mechanical equipment and other roof-top appurtenances, the 14,667 square foot SPV array is the largest the BD&C building could accept.

A. Air Quality Standards

Operation of the Facility will not produce emissions of any regulated air pollutants or greenhouse gases. No impacts to air quality are expected, and no DEEP air permit is required for the Facility. (See Attachment 2, p. 36).

B. Water Quality Standards

The Facility is unstaffed and does not require the use of potable water or any sanitary facilities in the production of electricity. Any water utilized during construction for dust control will be minimal and have no impact on water quality in the vicinity of the Property. No liquid fuels will be used in the operation of the Facility.

A vast majority of the Property, including those areas proposed to be used for the ground-mounted solar arrays, is located in an area outside both the 100-year and 500-year flood plain. There are no water supply wells located on the Property. (See Attachment 2, pp. 18 and 37). SolarCity has developed a detailed stormwater management plan in compliance with the filing requirements of the DEEP's General Permit for the Discharge of Stormwater and Dewatering Wastewater. A copy of a Stormwater Management Report ("SWMP") for the Facility is included in Attachment 4. As demonstrated in the SWMP, there will be no negative stormwater impacts resulting from the development and operation of the North Canaan Facility.

No inland wetlands or watercourses will be directly impacted by the development of the Facility. All clearing and grading activity would maintain a minimum setback of 70 feet to the eastern end of Wetland 1 (where Wetland 1 adjoins the developed portion of the Property. This portion of Wetland 1 is physically separated from the Facility by the existing rail spur. More importantly, the limits of ground disturbance associated with the western ground-mounted array will be setback a minimum of 345 feet to the remaining portions of Wetland 1. No Site development activity will occur within 200 feet of Wetland 2 or within 400 feet of Wetland 3.

Project related development activity will maintain setbacks of approximately 500 feet from Wetland 3. Any potential short term temporary impacts on Wetland 1, Wetland 2 or Wetland 3 will be minimal and mitigated by the use and maintenance of proper soil erosion and sedimentation controls throughout the construction period. SolarCity does not, therefore, expect any adverse impacts to these wetland resources. (See Attachment 2, pp. 3-6 and 25).

As discussed in more detail in the EA, no activity associated with development of the Facility will occur within 100 feet (the “Vernal Pool Envelope” or “VPE”) of any vernal pool on the Property. For vernal pools 2, 3 and 4, less than 25% of development is proposed within 750 feet (the “Critical Terrestrial Habitat” or “CTH”) of these vernal pools. Vernal pool 1 currently contains 36% development within its CTH. That percentage would increase by 6% under the current development plan for the Facility. To off-set this increase, APT has developed a Vernal Pool Mitigation Plan calling for the restoration of critical vernal pool habitat. (See Attachment 2 pp. 6-11 and 26-32).

C. Vegetation and Wildlife

The proposed ground mounted SPV arrays would require clearing and re-grading of a 9.3 acre area within mature forested uplands. A majority of the forested area to be clear is located in “edge” forest habitat. (See Attachment 2, pp. 12 and 33).

D. Rare Species

As outlined in the EA, APT reviewed a “State Listed Rare, Threatened and Endangered Animal and Plant Survey Report” prepared by TRC of Lowell, Massachusetts (on behalf of others) and completed an updated review of more current DEEP and Natural Diversity Data Base (“NDDB”) mapping information to determine the extent of potential species or habitats occurring in the vicinity of the Facility. APT has also submitted an updated request to the NDDB (February 2016), including a detailed description of the SolarCity Facility, site

photographs and recent mapping information. To date the DEEP has not responded to this submission. As set forth in the EA, APT has determined that no suitable habitat exists within the Property to support State listed plant species. Also, with respect to vertebrates, SolarCity is committed to protecting a certain habitat favored by *Blue Spotted Salamander Complex* in those areas proximate to Vernal Pool No. 1. APT has developed appropriate mitigation strategies to prevent potential risk of harm to these important species. Habitat enhancement measures are discussed in more detail in EA (See Attachment 3, pp. 12-16 and 33-34).

Lastly, APT determined that one federally listed “threatened” species, the *Northern Long Eared Bat* (“NLEB”), may occur in the vicinity of the Property. The identified range of the NLEB encompasses the entire State of Connecticut. To assess the potential impact of the SolarCity project on the NLEB, APT evaluated the recently established U.S. Fish and Wildlife Service (USFWS) NLEB impact criteria and determined that the facility would not result in an adverse effect on or incidental take of NLEB. (See Attachment 2, pp. 34-36).

E. Bird Habitat Impact Analysis

Habitat loss is an unavoidable consequence of any type of land development including that necessary for the Facility. Although the proposed construction activities will result in the clearing of trees, shrubs and other mature vegetation that has the potential to support breeding birds, the tree clearing restriction period proposed to protect the NLEB populations will also serve to avoid disturbance during periods of high bird activity. (See Attachment 3, p. 36).

F. Scenic Areas

No State designated scenic or recreational areas, parks or other surrounding features would be impacted by the development of the proposed Facility. (See Attachment 2, p. 38).

G. Historic and Archeological Resources

No historic resources listed on or eligible for listing on the National Register of Historic

Places exist within ½ mile of the Property. There are, however, numerous reported archeological sites in the general vicinity of the Property as identified in a Preliminary Archeological Assessment prepared by Heritage Consultants, LLC (“Heritage”). A copy of this preliminary report was submitted to the State Historic Protection Office (SHPO). After review, SHPO asked for a more complete Cultural Resource Assessment and Reconnaissance Survey for the Property. That survey was completed in May of 2016. The survey failed to produce any evidence of the existence of cultural resources on the Property. These findings were presented to the SHPO and SolarCity is awaiting the agency’s response. (See Attachment 2, pp. 17 and 36).

H. Carbon Debt Analysis

The Facility will result in a net improvement in carbon reduction compared to the loss of approximately 9.3 acres of the forest woodland portions of the Property. The Carbon Debt Analysis included in Attachment 5 accounts for the loss of trees on the Property and carbon associated with both the manufacturer of the solar panels and Facility construction activities. The results of this analysis demonstrate that the Facility would begin to have a measurable net improvement in carbon reduction in less than three (3) years.

I. Noise

The only equipment associated with the Facility that generates noise are the fans associated with the power inverters. According to a Noise Report prepared for the proposed installation, the Facility will comply with all State and local noise standards. (See Attachment 2, pp. 19 and 37).

J. Visibility

APT has completed a visual impact assessment for the proposed Facility. The Facility will include three (3) separate solar array elements, two (2) ground-mounted locations and one (1) roof-mounted location. The two ground-mounted arrays will be surrounded by existing

vegetation and a fenced enclosure. The southwestern portion of the ground-mounted arrays is adequately screened by existing vegetation and overall distance to the nearest residential property. Some views of the southeastern portion of the ground-mounted arrays may be visible from an adjacent residential parcel at 138 South Canaan Road (US Route 7) during the winter months when the leaves are off the trees. The roof-mounted solar arrays are setback sufficiently on the building roof and will not be visible from locations off of the Property. (See Attachment 2, p. 38).

K. Traffic

Traffic to the Facility, after the initial construction period, will be minimal. Unless there is a problem with a particular piece of equipment, SolarCity anticipates the need for annual maintenance visits by technicians. In addition, typical grounds maintenance involves mowing of the area between the solar panels approximately four (4) times during a typical calendar year.

L. Decommissioning Plan

SolarCity has developed a Decommissioning Plan to prepare for the eventual permanent closure of the Facility. The Decommissioning Plan describes the process for removal and disposal or the recycling of all equipment and materials installed within the Project Area and the restoration of the land to its pre-development condition. A Decommissioning Plan is included in Attachment 6.

VII. Notice to the Government Officials and Abutting Landowners

Notice of this Petition has been sent by certificate of mailing to municipal, regional and State officials, pursuant to the requirements of C.G.S. Section 16-50j(b). A Certificate of Service, along with the lists of the officials who were sent notice of the Petition, are included in Attachment 7. A Certificate of Service verifying that notice of the Petition was also sent to all abutting landowners in accordance with R.C.S.A. Section 16-50j-40 along with a list of these

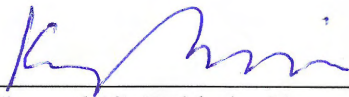
abutters is included in Attachment 8.

VIII. Conclusion

For the reasons stated above, SolarCity respectfully requests that the Council approve the location and construction of the Facility by declaratory ruling.

Respectfully submitted,

CELLCO PARTNERSHIP d/b/a VERIZON
WIRELESS

By 

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List of Attachments

1. Existing Conditions Map
2. Environmental Assessment
3. Project Plans
4. Stormwater Management Report
5. Carbon Debt Analysis
6. Decommissioning Plan
7. Notice to the Government Officials
8. Notice to Abutting Landowners