

Bond Case Briefs

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In re Acorn Energy Solar 2, LLC

Supreme Court of Vermont - January 15, 2021 - A.3d - 2021 WL 139140 - 2021 VT 3

Applicant sought certificate of public good (CPG) to build and operate a ground-mounted 150-kW solar net-metering system on leased pasture land.

The Public Utility Commission (PUC) denied motion to dismiss filed by intervening adjoining landowners, granted application, and subsequently denied reconsideration. Adjoining landowners appealed.

Holdings: The Supreme Court held that:

- The PUC did not err in concluding that application was administratively complete under PUC rule setting forth standards and procedures applicable to CPG applications for net-metering systems, even though it did not include a drainage plan;
- The PUC's determination that proposed relocation of two maple trees was a "minor" amendment to application was neither unreasonable nor did it demonstrate compelling indications of error;
- The scope of adjoining landowners' intervention was not limited to the aesthetics criteria;
- Adjoining landowners lacked standing to challenge the PUC's preferred-site determination;
- As a matter of first impression, in determining whether a proposed project has an undue adverse aesthetic effect, alternative siting is a mitigating measure under Quechee in the CPG context;
- The PUC did not clearly err in finding that any project-related sound impacts would not be undue; and
- In concluding that project would not unduly interfere with orderly development of region, the PUC properly considered letter of support from town selectboard and town planning commission, even though both entities acknowledged that they violated Vermont's Open Meeting Law at meetings where they discussed whether to support project.