

Standard Offer Program

Problems with Expansion and Extension

May 11, 2021



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Issues with Standard Offer Program

- Community Notification
- Site Control
- Single Plant
- Location re: Load
- Litigation

Community Notification

- Developers have a short window between issuance of RFP and deadline for submitting bid.
- Becomes a hunt for land to lease or purchase.
- No requirement to notify municipality upon submission of bid.
- Location cannot be changed once bid accepted and contract awarded.

After Standard Offer Contract Awarded

Developer looks to move Brandon solar project

By SUSAN SMALLHEERSTAFF WRITER May 17, 2018 Updated Oct 30, 2018 0



This image taken from Conti Solar's bid proposal shows the location of a proposed solar project in Brandon near the intersection of Country Club Road and Park Street Extension.

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After Standard Offer Contract Awarded

Solar developer loses interest in Thomas Dairy land

By Keith Whitcomb Jr. Staff Writer Dec 1, 2020 0



An Oregon developer eyeing former Thomas Dairy land for two solar projects has reportedly backed out, according to landowners and town officials.

Thomas Dairy is a former milk processing facility that announced this fall that it would close in October owing to price fluctuations in the milk industry and the added hardships created by the COVID-19 pandemic. The family-owned business was approximately 100 years old

In September, Pacific Northwest Solar met with the Planning Commission to tell it about plans for two side-by-side solar projects, one for 2.2 megawatts, the other 1 megawatt. The company had not yet filed its 45-day notice with the Public Utility Commission, and according to PUC records, never did.

Dick Thomas, one of the co-owners of Thomas Dairy, said Monday he believes the developer had two issues with the property, those being the buffers around archeological sites and wetlands. Pacific Northwest Solar wasn't able to build the facilities at the size it wanted and making them smaller would have cost the same, so it opted not to proceed.

The board was updated on the matter by Planning Commission Chairwoman Barbara Noyes Pulling. She said the commission had spoken to Scott Dillon, senior review coordinator with the Vermont Division for Historic Preservation, who suggested the town gather as much information about the site as it could to determine how it might be developed without impacting historic sites or wetlands.

Dillon said Monday that the archeological sites were identified in 2010 as part of an Act 250 application.

LATEST E



Site Control

RFP Site Control Requirement:

Applicants who bid for contracts are expected to have site control such that they “have a realistic chance of being commissioned.”

Contract Requirement:

The contract defines “site control” as “proof of dominion over real property to the extent necessary to construct the project.”

The Site Control requirement reads as follows:

The proponent must demonstrate project site control in favor of the proponent's legal company name by providing evidence of one of the following:

- (1) fee simple title to such real property;
- (2) valid written leasehold or easement interest for such real property;
- (3) a legally enforceable written option with all terms stipulated including "option price" and "option term," unconditionally exercisable by the proponent or its assignee, to purchase or lease such real property or hold an easement for such property including the underlying purchase, lease, or easement agreement; or
- (4) a duly executed contract for the purchase and sale of such real property.

These are the only permissible forms of site control.

Site control documents must contain the following: (1) proponent's legal company name; (2) parcel size; (3) 911 physical address; (4) legal description adequately identifying the property; (5) must be valid for the term of the standard-offer contract plus development time; and (6) must be signed by all parties. Each project proposed must have its own independent site control.*

*<https://www.vermontjudiciary.org/sites/default/files/documents/op19-393.pdf>

Bennington Solar

Developer presented road and interconnection point to PUC and Vermont Supreme Court resulting in overturning PUC denial.

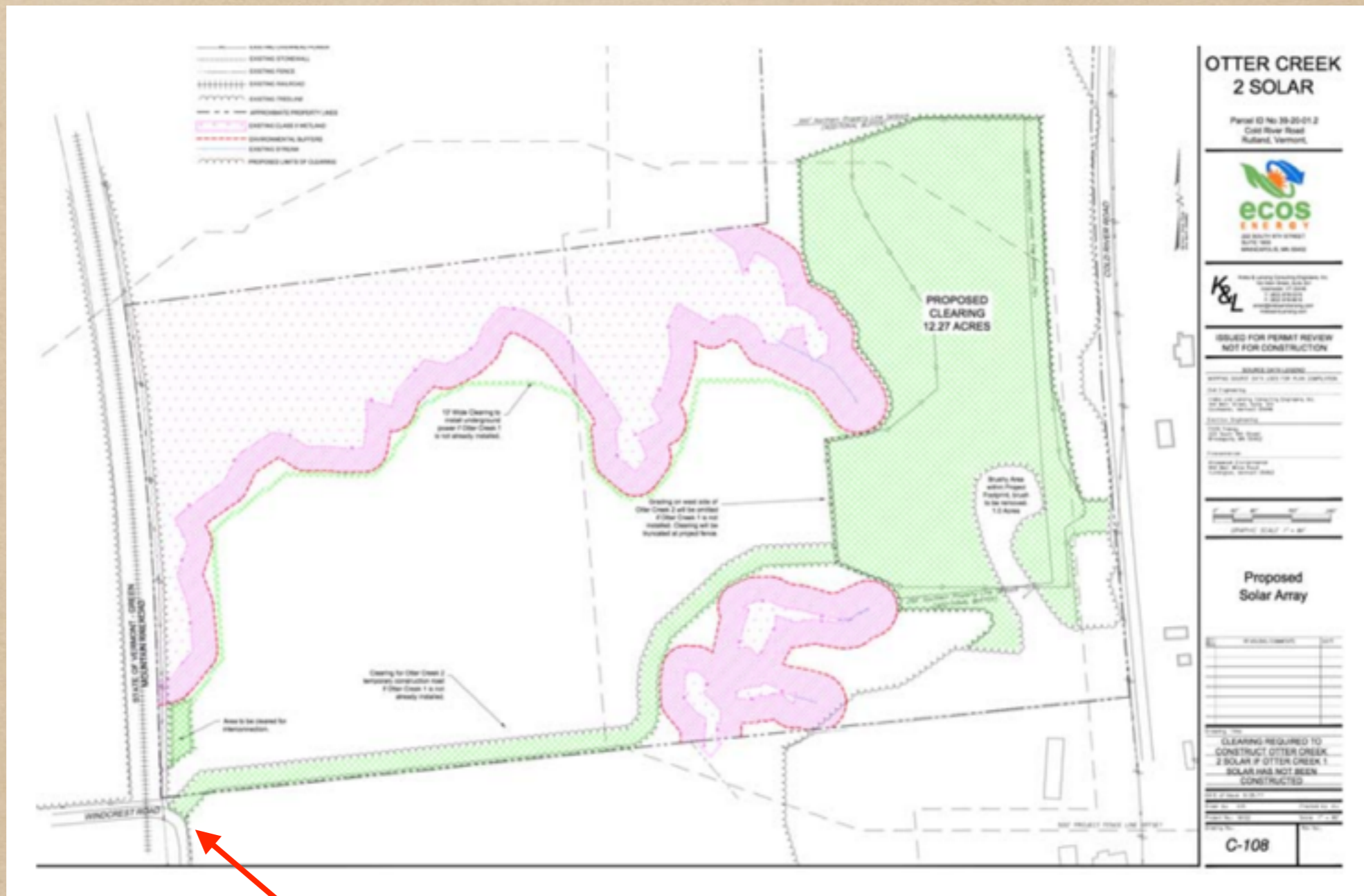
Road does not exist.

Developer never had site control to access project as shown.

Proof of easement not required as part of obtaining contract.



Rutland Town



Developer presented plans to PUC showing project to be accessed via Windcrest Road from the southwest.



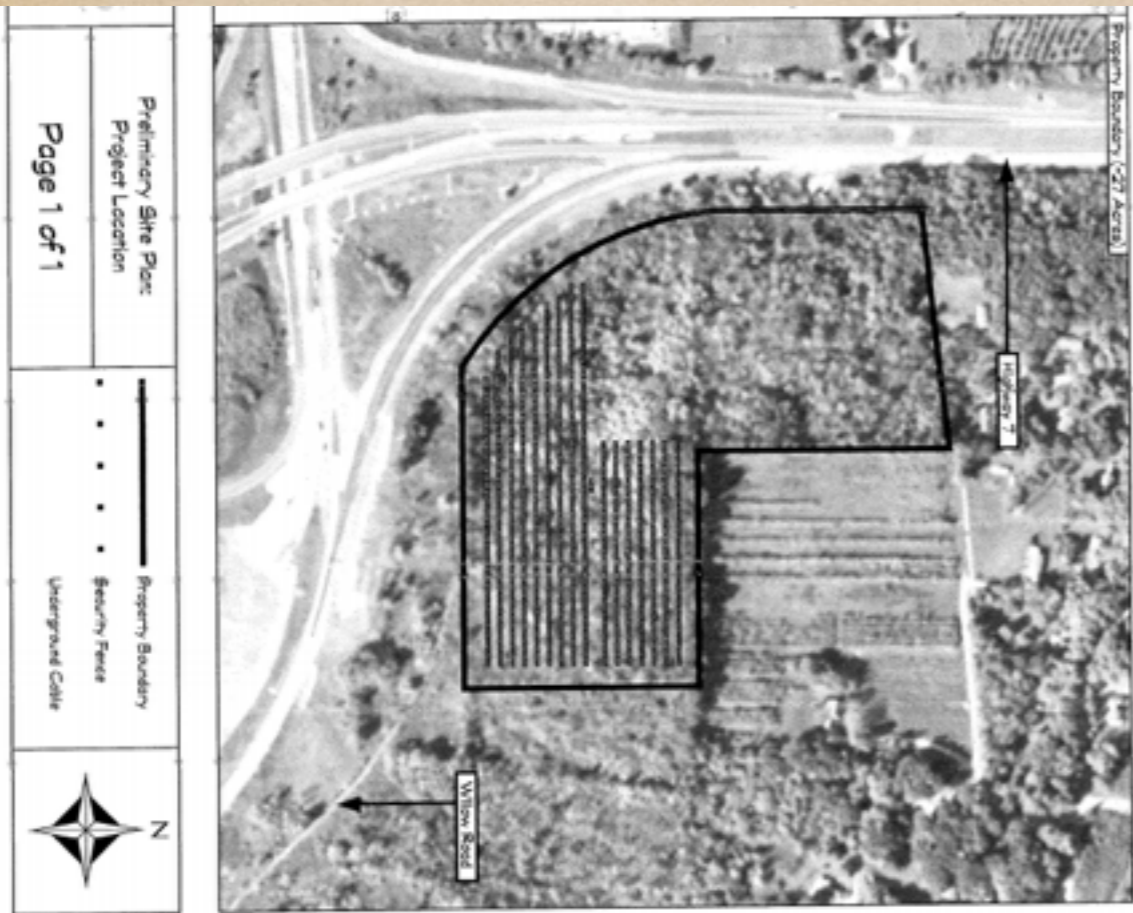
Rutland Town tax mapping shows the project parcel has no frontage on Windcrest Road.

Developer did not disclose need for easement via neighboring parcel or that the easement had not been obtained at the time of bid for Standard Offer Contract, signing Standard Offer Contract, or application for CPG.

Single Plant

- The Standard Offer program has issued contracts for three parcels to host seven 2.2 mW projects.
- To date only one developer has attempted to game the program requirements by siting more than one Standard Offer project on the same parcel.
- The PUC has allowed one parcel to host two Standard Offer projects. (Rutland Town)
- The Vermont Supreme Court has upheld the PUC's denial of one of two projects on one parcel. (Bennington)
- Decisions about three projects on one parcel have not yet been made. (Bennington)

Images and addresses submitted by Developer as part of Standard Offer Contract bid in 2013. Litigation ongoing.



Attachment C



Project Description – Apple Hill Solar Project
 2,000 MW (AC), 2,376 MW (DC)
 GPS Location: 42.9079, -73.2050
 1035 Willow Road, Bennington, VT 05201



Attachment C



Project Description – Bennington Solar Project
 2,000 MW (AC), 2,376 MW (DC)
 GPS Location: 42.9091, -73.2065
 1033 Willow Road, Bennington, VT 05201

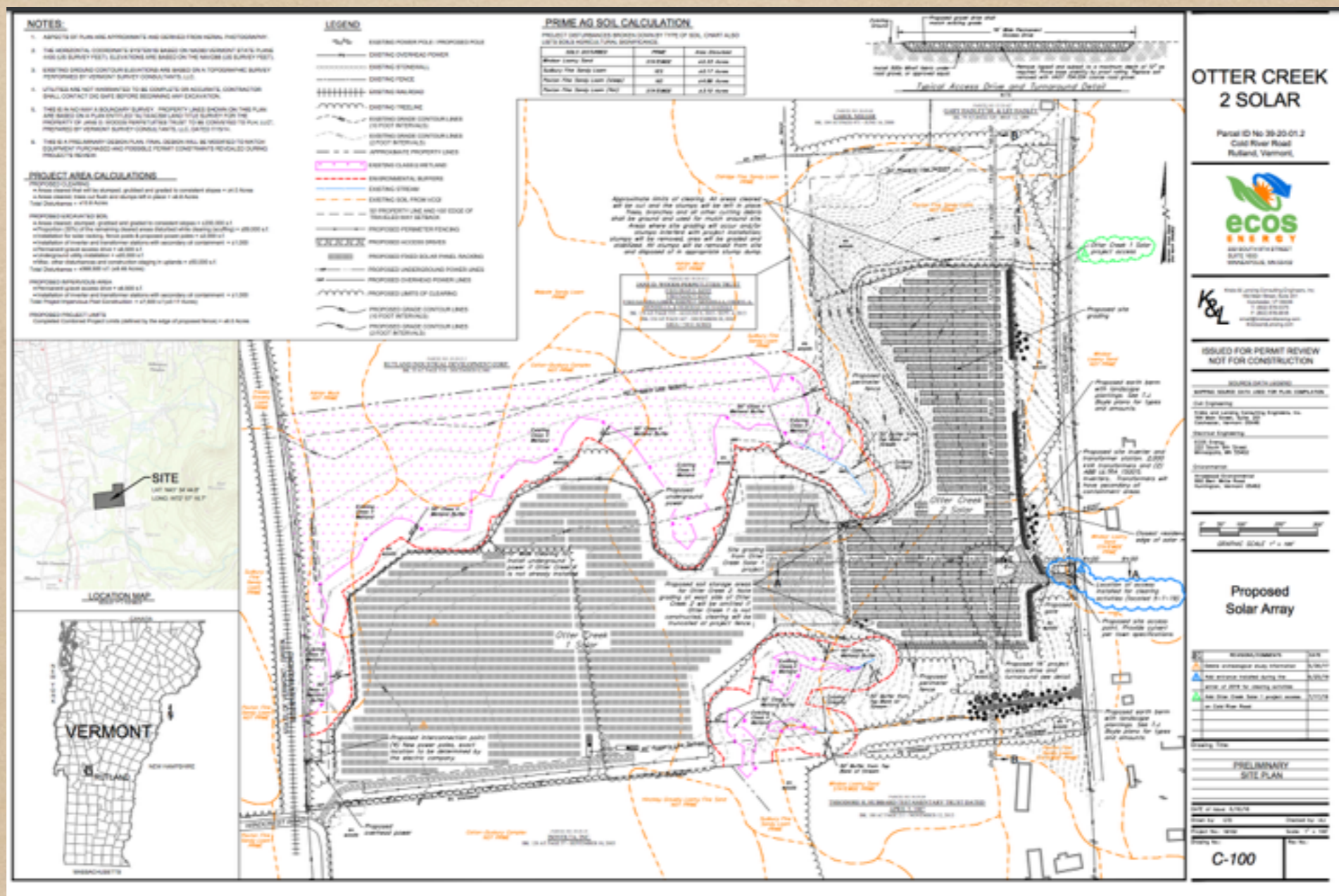
Five Bennington Standard Offer Projects on Two Parcels



Are these two single plants?

On April 16, 2021, Vermont Supreme Court said “yes” re: projects on the right.
https://www.vermontjudiciary.org/sites/default/files/documents/op19-226_1.pdf

Rutland Town Original Plan - 4.9 mW + 2.2 mW



Converted to two side by side 2.2 mW Standard Offer Projects which the PUC has approved as not being a Single Plant

Location re: Load

- Project sites are chosen by developers based on available land.
- Interconnection studies and grid impacts are not part of the RFP process.
- Standard Offer program enables projects to be built far from load and may result in negative impacts to grid.
- Expanding the program from 2.2 mW to 5 mW cap increases the likelihood that Standard Offer projects will not be built in locations that support the grid.
- Single Plant problem means that 10 to 15 mW could be attempted to be sited on one parcel.

Litigation

The Standard Offer Program has been mired in litigation.

- VEPP, Inc., Standard Offer Administrator, has been sued over Standard Offer program and PURPA in Federal Court twice.
- PUC has been sued over Standard Offer program and PURPA in Federal Court twice.
- FERC has dealt with allegations about Vermont's Standard Offer Program violating PURPA twice
- The PUC's Standard Offer Program decisions 2019 and 2020 have been appealed to the Vermont Supreme Court three times.

Federal Court and Vermont Supreme Court decisions are pending.

Summary

Vermont's Standard Offer program has issues that must be addressed if it is to continue.

Expanding the Standard Offer program at this time invites more litigation, more poor siting, more community uproar, more negative grid impacts.

Extending the Standard Offer program requires extensive testimony and discussion about how to address problems.