



## Vermonters for Clean Environment

### Comments to House Energy & Digital Infrastructure Committee on H.710 Single Plant Definition, May 13, 2026

#### **Wind Plants**

Current Single Plant definition was applicable to wind turbine projects. Wind plants have not been discussed in legislative testimony or in the PUC's process. The definition still makes sense for wind plants.

*Recommendation:* Keep the current definition in statute for wind turbine projects.

#### **Single Plant Litigation**

Current cases at the PUC involving the Single Plant definition complicate the effort to change the definition at this time.

- 23-0249 <https://epuc.vermont.gov/?q=node/64/176951/FV-Case%20Summary-Portal>
- 24-3517 <https://epuc.vermont.gov/?q=node/64/202167/FV-Case%20Summary-Portal>

The Vermont Supreme Court ruled in December 2025 on a third case by the same developer with Single Plant as the issue

<https://www.vtcourts.gov/sites/default/files/documents/op24-374.pdf>

A wholesale change in the definition of Single Plant at this time directly affects and may prolong and complicate two PUC cases that began in 2013. This issue may go away soon, but for now it is best to leave the current definition in place until these cases end.

*Recommendation:* Limit the change in definition to Preferred Locations and Sites.

#### **Preferred Locations and Sites**

Vermont Statute and PUC Rule recognize preferred locations and sites for solar arrays. (see pp. 4 and 6, below, for statutory and rule language). Limiting the proposed new definition of Single Plant to Preferred Locations and Sites would enable development to extend existing sites, and provide a pilot program to assess the benefit of the change.

*Recommendation:* Apply the new definition to Preferred Locations and Sites only.

#### **Green Fields and Forests**

Forests: The PUC has set limits on forest clearing for net-metering projects. PUC Commissioner Cheney issued a concurring opinion in the Shaftsbury Solar decision expressing concern for forest clearing for solar arrays, and the need to provide the PUC with necessary statutory changes to take more issues associated with the clearing of forests into consideration in future decisions. <https://vtce.org/ShaftsburySolarFinalOrder.pdf>, pp. 69 - 72

*I am concerned about the amount of forest that will be cleared for this project, which not only affects aesthetics but seriously diminishes the Facility's greenhouse gas ("GHG") benefits.*

*Quoting the PUC: “Recognizing that forests serve a vital role as carbon sinks and that greater carbon reductions are achieved by developing solar with minimal forest clearing, the Commission then imposed a three-acre limit on forest clearing for the largest net-metering projects to qualify for “preferred site” status and the financial incentives that went with it.”*

*We should quantify the embodied carbon emissions that result from deforestation in a lifecycle GHG accounting and create incentives to avoid clearcutting forested land. As noted by ANR in the net-metering rulemaking, Vermont has enough acres to host solar development without sacrificing the state’s carbon-reducing forests.*

Green Fields: The Senate Agriculture Committee heard testimony this session from farmers Greg Cox of Rutland, Jesse McDougall of Shaftsbury, the chair of the Lowell Select Board, [VCE](#), and others about solar projects on agricultural lands, after hearing from AAFM’s Ryan Patch who gave a [historical overview](#) of the loss of farmland in Vermont. While the solar language did not stay in the bill, there is ongoing, active concern about the loss of Vermont farmland and all the pressures, not just for solar projects, but all types of development. A compilation of all the solar projects in Vermont 1 – 5 MW<sup>1</sup> shows that the majority of those projects are sited on agricultural lands.

The new definition of Single Plant will most likely result in more agricultural lands, many of which are contiguous to forests that could be cleared, being used for expanded footprints of solar arrays. This is contrary to the goal of the new definition, which is to minimize impacts to the environment.

**Recommendation:** Limit the new definition of Single Plant to Preferred Locations and Sites for the next year, while queuing up the siting of solar arrays of forests and fields for the next legislative session.

**PUC Public Process:** The process for siting solar arrays is a legalist process incomprehensible to Vermonters. Some discussions are taking place about moving solar siting to Act 250, which would have numerous benefits.

**Recommendation:** Before making a large change that enables the expansion of existing solar arrays into contiguous farm fields and forests, limit the change in Single Plant definition to Preferred Locations and Sites and take up the process for siting solar arrays in the next legislation session.

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<sup>1</sup> 2.3 – 5 MW:

<https://legislature.vermont.gov/Documents/2026/Workgroups/Senate%20Finance/Bills/H.710/Witness%20Testimony/H.710~Annette%20Smith~Solar%20Sites~4-10-2026.pdf>

1.0 – 2.2 MW, 2017 – present:

<https://legislature.vermont.gov/Documents/2026/Workgroups/Senate%20Finance/Bills/H.710/Witness%20Testimony/H.710~Annette%20Smith~ePUC~4-10-2026.pdf>

1.0 – 2.2 MW – pre-2017

<https://legislature.vermont.gov/Documents/2026/Workgroups/Senate%20Finance/Bills/H.710/Witness%20Testimony/H.710~Annette%20Smith~Legacy~4-10-2026.pdf>

### **Finality**

Finality is an issue that has arisen in the two contiguous Bennington projects that have been going on for more than a dozen years. Apparently there is something in Act 250 that limits the ability of an applicant to keep coming back with the same project in the same location, and in zoning there is something called the Successive Application doctrine. There is nothing similar at the PUC, either in rule or statute or case precedent. “*When will it ever end?*” is a common refrain from the many people in Bennington who have been involved in the solar project PUC cases.

The need for finality is an important area for Vermonters, and one that this proposed change in definition has not considered. The proposed definition, applied to every solar project already built in Vermont:

384 solar projects 50 – 149 kW  
 451 solar projects 150 – 999 kW  
 108 solar projects 1 MW – 5 MW

means that hundreds of neighborhoods could see additional solar arrays up to 5 MW, with more additional solar projects up to 5 MW added to each site, with no limits. An existing 500 kW virtual net metering project built far from load could add 20 MW or more over time, using the same road and power line infrastructure, with no other applicable standards. Projects that saw no opposition (the vast majority of solar projects) may experience opposition from neighbors who say “enough is enough.”

***Recommendation:*** Limit the new definition to Preferred Locations and Sites and identify potential standards, limits to project development, and other ideas to address the need for Finality of developments as they affect Vermont’s communities.

### **Parking Lot Canopies**

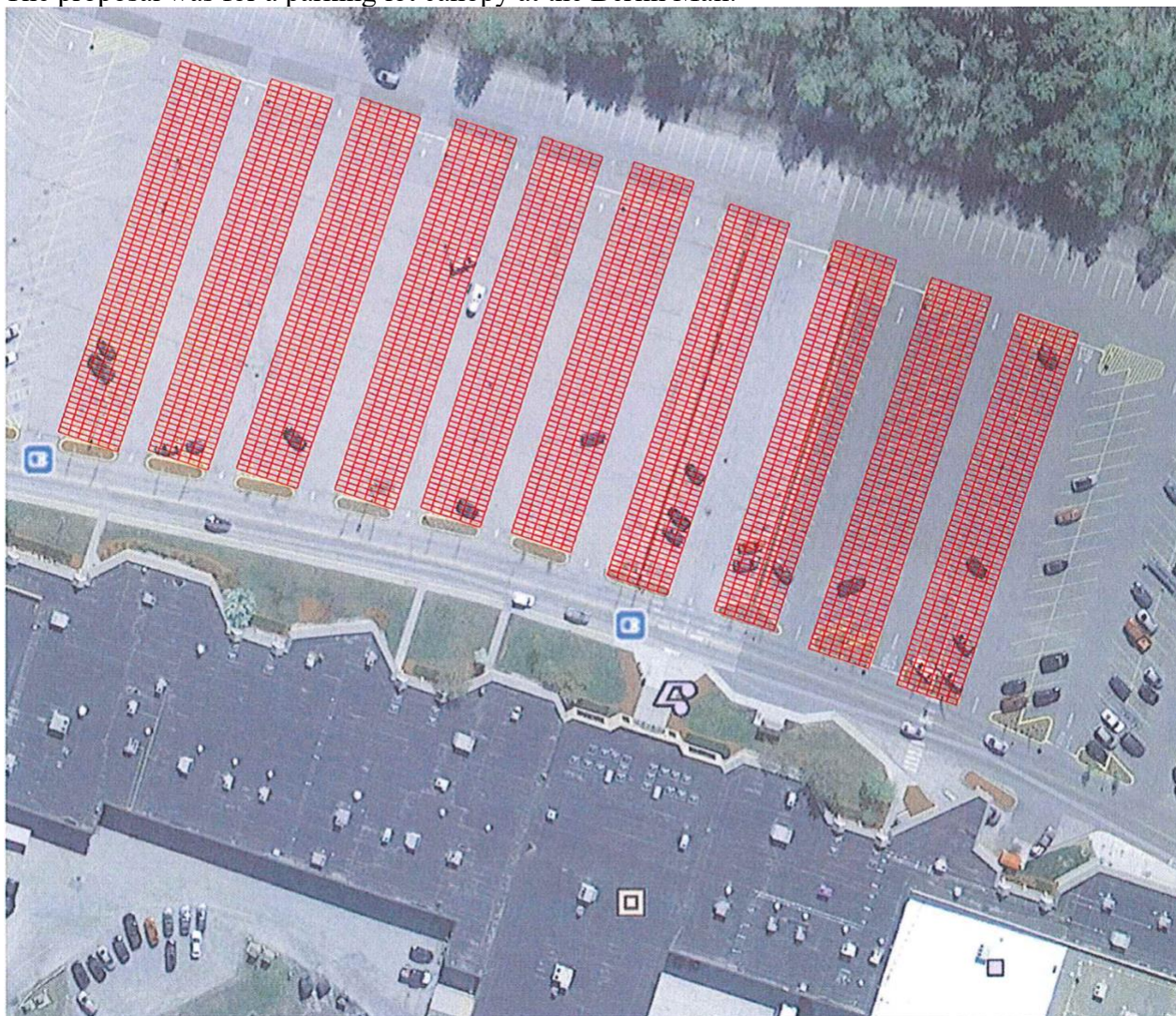
See the next section with the Standard Offer Statute Definition for Preferred Locations (in red text). The statute requires a pilot project for parking lot canopies in 2017. VCE inquired of VEPP, the Standard Offer program administrator, and learned that one bid was submitted but the project did not come to fruition due to an application requirement that was not met.

The bid price for the parking lot canopy was 13.9 cents per kWh. The regular standard offer winning bids were 12.9 cents per kWh. The price differential in 2017 was not large.

<https://vermontstandardoffer.com/wp-content/uploads/2019/01/10-20-PUC-Order-re-2017-Award-Group-final.pdf>

PROJECT NAME	TECHNOLOGY	PRICE (\$/kWh)	SIZE (kW)	CATEGORY TOTAL (kW)
<b>Provider Block - Other</b>				
Trombley Hill Solar	Solar	0.1290	855	
Blackberry Solar 1	Solar	0.1295	860	<b>1,715</b>
<b>Preferred Location Block - Parking Canopy</b>				
Eitri Foundry, LLC	Solar	0.1396	1,200	<b>1,200</b>

The proposal was for a parking lot canopy at the Berlin Mall.



Vermonters regularly raise the question about parking lot canopies. This previous proposal provides evidence that there is potential for Vermont to provide support for parking lot canopies. This is the type of solar development Vermonters want to see. Less expanded agricultural fields or cutting forests, more solar on the built environment.

### **Decommissioning**

VCE supports the changes to decommissioning.

Thank you for considering these recommendations.

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**Standard Offer Statute “Preferred Location” (boldface below)**

Title 30 : Public Service, Chapter 089 : Renewable Energy Programs

Subchapter 001 : GENERAL PROVISIONS

§ 8005a. Standard Offer Program

<https://legislature.vermont.gov/statutes/section/30/089/08005a>

(D) Pilot project; preferred locations. For one year commencing on January 1, 2017, the Commission shall allocate one-sixth of the annual increase to new standard offer plants that will be wholly located in one or more preferred locations other than parking lots or parking lot canopies and, separately, one-sixth of the annual increase to new standard offer plants that will be wholly located over parking lots or on parking lot canopies.

(i) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider’s existing facilities. To qualify for the allocation to plants wholly located over parking lots or on parking lot canopies, the location shall remain in use as a parking lot.

(ii) These allocations shall apply proportionally to the independent developer block and provider block.

(iii) If an allocation under this pilot project is not fully subscribed, the Commission in 2017 shall allocate the unsubscribed capacity to new standard offer plants outside the pilot project.<sup>2</sup>

(iv) As used in this subdivision (D), “preferred location” means a site within the State on which a renewable energy plant will be located that is one of the following:

(I) A new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(II) A parking lot canopy over a paved parking lot, provided that the location remains in use as a parking lot.

(III) A tract previously developed for a use other than siting a plant on which a structure or impervious surface was lawfully in existence and use prior to July 1 of the year preceding the year in which an application for a certificate of public good under section 248 of this title for the plant is filed or in which the plant seeks an award of a contract under the Standard Offer Program under this section, whichever is earlier. To qualify under this subdivision (III), the limits of disturbance of a proposed renewable energy plant must include either the existing structure or impervious surface and shall not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

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<sup>2</sup> Was this pilot project ever implemented? If not, could it be done now to utilize unfulfilled contracts?

**(IV) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642.**

**(V) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and is suitable for the development of the plant.**

**(VI) The disturbed portion of a gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that all activities pertaining to site reclamation required by applicable law or permit condition are satisfied prior to the installation of the plant.**

**(VII) A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets any siting criteria recommended in the plan for the location.**

**(VIII) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms each of the following:**

**(aa) The site is listed on the NPL.**

**(bb) Development of the plant on the site will not compromise or interfere with remedial action on the site.**

**(cc) The site is suitable for development of the plant.**

**(IX) A new hydroelectric generation facility at a dam in existence as of January 1, 2016 or a hydroelectric generation facility that was in existence but not in service for a period of at least 10 years prior to January 1, 2016 and that will be redeveloped for electric generation, if the facility has received approval or a grant of exemption from the U.S. Federal Energy Regulatory Commission.**

**PUC Net-Metering Rule, “Preferred Site”**

<https://puc.vermont.gov/sites/psbnew/files/documents/rule-5.100-clean-final-11-12-2024.pdf>

Effective March 1, 2024, Vermont Public Utility Commission, Rule 5.100

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“Preferred Site” means one of the following, provided that the site does not require significant forest clearing:

(1) A new or existing constructed impervious surface or structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(2) A parking lot canopy over a parking lot, provided that the location remains in use as a parking lot.

(3) A tract previously developed for a use other than siting a plant on which a structure or constructed impervious surface was lawfully in existence and use at any time during the year preceding the date an application for a certificate of public good under this Rule is filed. To qualify under this subdivision (3), more than half of the energy generation component of the plant must be located within the footprint of either the existing structure or impervious surface. The project limits may not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forest soils, or primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities.

(4) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642, provided any request to the Secretary of Natural Resources for such certification includes a report from a diligent and appropriate investigation, as required by 10 V.S.A. chapter 159.

(5) A sanitary landfill as defined in 10 V.S.A. § 6602 and contiguous land, structures, appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and contiguous land, structures, appurtenances, or improvements, and that the landfill is actively maintained under the authority of a post-closure certification, administrative order, or assurance of discontinuance, or in custodial care as recognized by the Agency of Natural Resources. To qualify under this subdivision (5), some portion of the plant must be located on the landfill cap.

(6) A gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that:

(a) more than half of the energy generation component of the plant is located within the disturbed or previously disturbed portion of the extraction site.

For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities; and  
(b) all state and local permit conditions related to reclamation of the site are satisfied before the operation of the plant.

(7) A specific location determined by the governing municipal legislative body and the municipal and regional planning commissions as suitable for the development of a net-metering system consistent with applicable policies in their respective plans. The specific location must be identified in a letter or letters from the municipal legislative body and the municipal and regional planning commissions based on their evaluation after having received the 45-day notice for the project. Such letters in no way limit the ability of municipalities and regional planning commissions to participate in the Commission's review of the net-metering system proposed to be constructed on the location identified in the letter.

(8) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms that the site is listed on the NPL, and provided that the applicant demonstrates as part of its CPG application that:  
(a) development of the plant on the site will not compromise or interfere with remedial action on the site; and  
(b) the site is suitable for development of the plant.

(9) On the same parcel as, or directly adjacent to, a customer that has been allocated more than 50 percent of the net-metering system's electrical output. The allocation to the host customer may not be less than 50 percent during each of the first 10 years of the net-metering system's operation.