

Court dismisses Bennington solar developer's suit

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Allco Renewable Energy has at least three solar projects in the planning or permitting stages in Bennington. Photo by Pixabay

BENNINGTON — The Vermont Environmental Court has dismissed a complaint filed against the town of Bennington by solar project developer Allco Renewable Energy Ltd.

Attorney Merrill Bent, representing both the town and Bennington County Regional Commission in the matter, had filed a motion to dismiss in March, contending in part that the appeal and complaint were not proper for the venue.

In a decision released Wednesday morning, the court agreed.

“The Environmental Court ruled that the plaintiffs brought their claims in the wrong court,” Bent said. “The plaintiffs already knew that, because we told them that when they filed this case. It appears that the plaintiffs are focused on burning taxpayer dollars, not on what the law says.”

In February, a limited liability corporation related to the solar developer challenged the adoption of Bennington’s new Energy Plan, contending that it did not comply with provisions of Chapter 117, the state’s 2016 energy planning legislation, and that it violated the developer’s constitutional rights.

Chapter 117 is intended to give more deference before the state Public Utility Commission to communities over the siting of large energy projects.

Allco Renewable Energy has at least three commercial solar projects in the planning or permitting stages for sites in Bennington. A company spokesman said Wednesday afternoon that further court appeals are likely concerning the energy siting issues raised in the Environmental Court complaint.

The town Energy Plan, which in part identifies preferred areas of town where energy facilities should be located, also was approved in March by the BCRC members.

Third court venue

The developer had previously filed a civil suit in Chittenden County Superior Court in January, setting forth similar challenges and naming the town, BCRC and several local officials and residents.

At the town’s request that suit was removed to U.S. District Court in February, in part because it included constitutional rights allegations. However, two days later, the developer asked to dismiss its own action and then filed a similar complaint in Environmental Court.

“This is one of several examples of the sustained efforts to beat the town into submission through expense,” Bent, of Woolmington, Campbell, Bent & Stasny, the town’s legal firm, said Wednesday afternoon.

“It is one thing for them to spend their own money on baseless suits, but it is shameful to waste taxpayer dollars rather than just following municipal regulations like everyone else,” she said.

In a decision signed by Judge Thomas G. Walsh, the Environmental Court also denied a request from the plaintiffs to transfer the case back to Superior Court, where it began in January.

Thomas Melone, the CEO of Allco Renewable Energy, said Wednesday afternoon in an email: “The issues involving the Bennington Town Plan are important ones. put it succinctly at last Monday’s Select Board meeting: the town is trying to take away property rights without just compensation.”