

Young / Sommer LLC

JEFFREY S. BAKER
DAVID C. BRENNAN
JOSEPH F. CASTIGLIONE
JAMES A. MUSCATO II
J. MICHAEL NAUGHTON
ROBERT A. PANASCI
ALLYSON M. PHILLIPS
DEAN S. SOMMER
KEVIN M. YOUNG

LAURA K. BOMYEA
E. HYDE CLARKE
JESSICA ANSERT KLAMI
KRISTINA M. MAGNE
KRISTIN LAVIOLETTE PRATT

COUNSELORS AT LAW

EXECUTIVE WOODS, FIVE PALISADES DRIVE, ALBANY, NY 12205
Phone: 518-438-9907 • Fax: 518-438-9914

www.youngsommer.com

SENIOR COUNSEL
MICHAEL J. MOORE
KENNETH S. RITZENBERG
DOUGLAS H. WARD

OF COUNSEL
SUE H.R. ADLER
LAUREN L. HUNT
ELIZABETH M. MORSS
SCOTT P. OLSON
STEPHEN C. PRUDENTE
KRISTIN CARTER ROWE

PARALEGALS
ALLYSSA T. MOODY
AMY S. YOUNG

Writer's Telephone Extension: 249
lbomyea@youngsommer.com

December 20, 2017

Via Electronic Filing

Hon. Kathleen H. Burgess, Secretary
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350

RE: Case 17-F-0655, Final PIP Plan and Response to DPS Comments in the Riverhead Solar 2 Project, Town of Riverhead, Suffolk County, New York

Dear Secretary Burgess:

On October 20, 2017, Riverhead Solar 2, LLC (“the Applicant” or “Riverhead Solar”), a wholly-owned subsidiary of FTP Power, LLC, filed a Public Involvement Program (“PIP”) plan for review, in accordance with 16 NYCRR § 1000.4, to construct a 36 megawatt (“MW”) alternating current (“AC”) photovoltaic (“PV”) solar energy generation facility, Riverhead Solar 2 (the “Facility” or “Project”), in the Town of Riverhead, Suffolk County, New York. The purpose of the PIP plan is to introduce the Project to the local community and other interested parties, and to explain the public outreach and involvement efforts that Riverhead Solar will pursue throughout the development of this Project.

On November 20, 2017, DPS Staff filed comments on the Riverhead Solar 2 PIP plan. Riverhead Solar hereby submits its responses to DPS comments, and its final PIP plan, in accordance with the regulations.

Of note, the Applicant has added a new Figure 4 to the PIP showing a preliminary viewshed analysis for the proposed Facility, by way of responding to some of the DPS Staff comments and providing stakeholders with a conservative estimate of maximum potential visibility of the Facility from the surrounding community. Other changes to the PIP plan are identified in the responses below.

Riverhead Solar 2 Project
Applicant Responses to DPS Comments

General Comments:

1. DPS Staff recommends that in the revised PIP Plan for the proposed Riverhead Solar 2 Facility (Riverhead Solar, the Facility or the Project), Riverhead Solar 2, LLC (the Applicant), add the case number to the front cover page and in the header of all pages where the case number is indicated.

Applicant Response: Case No. 17-F-0655 has been added as requested.

2. DPS Staff recommends that the Applicant include efforts to consult with DPS Staff at appropriate times during the outreach period, including during early development of the Preliminary Scoping Statement (PSS).

Applicant Response: The Applicant looks forward to consulting with DPS staff and has reached out to schedule a meeting in January 2018.

3. DPS Staff requests that copies of local laws and ordinances be provided to DPS Staff at the time of submittal of the PSS to advance scoping.

Applicant Response: The Applicant can provide copies of applicable local laws and ordinances, as requested.

Section 2.0 Project Description

Section 2.2 Project Summary

1. Figure 1 should be referenced in the first paragraph on page 3.

Applicant Response: The PIP has been updated as requested.

2. In the first paragraph on page 3, the Applicant notes that there are multiple solar facilities around the proposed Project. The Applicant should identify the facilities by name and indicate that they are owned/operated by sPower. In addition, the Project location is described in relation to other features and facilities. DPS Staff recommends that the revised PIP Plan provide an aerial photo-based map showing the location of the adjoining or nearby existing and proposed solar energy facilities, substations, and the proposed Riverhead Solar locations.

Applicant Response: The PIP has been updated as requested.

3. The Applicant should provide additional details regarding the location of the collector substation near the Sutter/Sterlington Solar PV facility. The PIP Plan should indicate the length of the proposed underground generation tie-line that will connect the Project facilities to the Edwards substation. If that line length design will exceed one mile, that

138 kV line will be subject to Public Service Law Article VII, and not subject to Article 10, other than as a Related Facility. If the line length is less than one mile, the 138 kV line is part of the Article 10 Generation Facility and the extent of the Article 10 Facility Area must extend to the Edwards substation. This should be explained in the revised PIP Plan and as part of outreach efforts.

Applicant response: The PIP has been updated as requested.

4. Figure 2 should include the name of the existing solar facilities as described in the first paragraph on page 4. In addition, the map should identify the location of the Edwards substation, and extend the Facility Area as discussed in comment 3 above. Because the Project area and other features are not distinguishable in a black and white copy of Figure 2, the Applicant should clearly label the three solar facilities depicted.

Applicant Response: The PIP and the associated Figures have been updated as requested.

5. The third paragraph on page 4 indicates that panels will be installed on a “low-profile racking system.” The Applicant should include an estimate of what the typical heights of the Project facilities might be.

Applicant Response: The PIP has been updated as requested.

6. *On page 7, provide additional details of the anticipated socioeconomic benefits of the Facility, including:*
 - a. An estimated number of permanent local employment opportunities that will be generated by construction and operation of the Facility; and
 - b. The estimated dollar amount of revenue anticipated to the County and local municipality tax bases.

Applicant Response: The PIP has been updated as requested.

Section 2.3 Study Area

1. The draft PIP Plan cites to Article 10 rules and describes the requirements for defining a Study Area. It suggests a Study Area extending one-mile outside of the Project Facilities Area. While the rules identify one mile as a potentially appropriate Study Area in highly urbanized areas, the Project setting does not meet that characterization. DPS Staff has agreed with several other project developers that two miles is an appropriate Study Area for major solar energy electric generating facilities in initial PIP Plan purposes, with potential for expansion due to potential Project visibility. DPS Staff recommends that the revised PIP Plan provide a two-mile Study Area for the Riverhead Solar Project, given the significant scale of development and cumulative effects with adjoining and nearby solar energy developments.

Applicant Response: The Applicant notes that the setting of the proposed Riverhead Solar 2 Facility differs from the other solar projects under review in the Article 10 process in two important respects. First, the proposed facility is one of the smallest solar facilities proposed, at 36 megawatts (MW), as compared to facilities up to 180 MW in size proposed elsewhere in the State. Furthermore, while most of the other Article 10 projects are proposed in rural areas in upstate New York, the Riverhead Solar 2 Facility is proposed in an area of the Town of Riverhead zoned for agricultural and commercial use, already host to existing solar development, to which the proposed Facility will be located adjacent. Also located nearby in the Town of Riverhead, is a large shopping mall and commercial center, a cement facility, a water park, an airport, and large housing subdivisions. The land disturbance associated with a 36 MW project in a developed setting, zoned commercial and with existing solar facilities located adjacent, is much different than that associated with a 90 MW solar project or a 180 MW solar project in a sparsely populated rural area lacking the same level of existing development and community character.

In addition, the topography around the proposed Facility is very flat, and local ordinances already require the use of significant screening to conceal the Facility from roadways and other points of interest. Thus, the 2-mile study area that may have been deemed appropriate for other facilities is not appropriate for this Facility or applicable in this setting.

Please also note the Applicant conducted a preliminary viewshed analysis for the proposed Facility using the assumption that 10-foot photovoltaic (PV) panels would be used, which is a conservative approach as the Applicant has indicated 8-foot PV panels will likely be used (see Figure 4 in the PIP). The preliminary viewshed analysis graphically represents the potential PV panel viewshed visibility based on the screening effects of existing topography, vegetation and man-made structures for 10-foot PV panels placed on all areas that could potentially be developed within the proposed Facility Area. The preliminary viewshed analysis demonstrates the visibility of the PV panels is largely contained within the 1-mile Study Area proposed by the Applicant. In several areas, the analysis shows visibility decreasing significantly just outside the Facility Area, the result of the screening effects of adjacent forested areas.

The results of the preliminary viewshed analysis indicate that approximately 12% of the 1-mile study area would have potential visibility of the proposed Facility. Further review of the results indicates that only 0.1% of the area between 1 mile and 2 miles of the Facility would have potential visibility. Therefore, the results suggest the 1-mile Study Area is adequate to address impacts and concerns related to the visibility of the proposed Facility. Based on the existing development and community character, zoning classifications, and the results of the preliminary viewshed analysis, the Applicant believes a 1-mile Study Area is appropriate for this specific Facility.

Furthermore, the Applicant proposes, to engage in broader community outreach beyond the 1-mile Study Area to determine whether communities greater than 1 mile from the proposed Facility are interested in the project, or to determine if concerns will be raised regarding the potential impacts of the project beyond the 1-mile Study Area. To that end,

the Applicant intends to pursue initial outreach to residents and landowners within 1.5 miles of the proposed Facility Area, which will allow stakeholders to identify any potential visual concerns for resources located outside the 1-mile Study Area.

2. Figure 3 should be updated to include the revised Study Area boundary.

Applicant Response: Please see response to comment #1, Section 2.3 (Study Area). Based on this response, the Study Area boundary has not been revised.

Section 3.0 Identification of Stakeholders

1. The Applicant should include “adjacent municipalities” in the bulleted list on page 12.

Applicant Response: The PIP has been updated as requested.

Section 3.1 Affected State and Federal Agencies

1. DPS Staff recommends including contacts for the Metropolitan Transportation Authority. Contact information is available on the Metropolitan Transportation Authority website: <http://www.ny.gov/agencies/metropolitan-transportation-authority#top>.

Applicant Response: The PIP has been updated as requested.

2. DPS Staff recommends that the Central Pine Barrens Commission staff be added as stakeholders to the outreach plan. Most of the Project Facility Area is within the Riverhead Receiving Area for land use development credits under the Pine Barrens Credit program (Pine Barrens Comprehensive Land Use Plan, Chapter 6, Figure 6-4, pg. 12). Contact information is available on the Central Pine Barrens Joint Planning & Policy Commission website: <https://pb.state.ny.us/contact-us/>.

Applicant Response: The PIP has been updated as requested.

Section 3.2 Local Agencies

1. DPS Staff recommends adding the Town of Riverhead Industrial Development Agency since the proposed Facilities will be located primarily within the Town’s Industrial Zone. Contact information is available on the Riverhead Industrial Development Agency website: <http://www.riverheadida.org/contact-gd.php>.

Applicant Response: The PIP has been updated as requested.

2. DPS Staff recommends adding the Town of Riverhead Planning Department, Office of Conservation Advisory Council. Contact information is available on the Town of Riverhead, Conservation Advisory Council website: <http://www.townofriverheadny.gov/pview.aspx?id=3747&catID=118>.

Applicant Response: The PIP has been updated as requested.

Section 3.4 Municipalities in the Study Area

1. Given the extended Study Area recommended by DPS Staff, the Town of Southampton may be within the two-mile boundary. If so, the Town should be included as a municipality in the Study Area.

Applicant Response: Please see response to comment #1, Section 2.3 (Study Area). Based on this response, the Study Area boundary has not presently been revised. As noted above, Applicant will engage in initial public outreach to all landowners and residents within 1.5 miles of the Facility, to determine whether community members have specific impact concerns regarding resources beyond one mile of the Facility.

Section 3.5 Additional Stakeholders

1. DPS Staff recommends adding a contact for the organization Renewable Energy Long Island. Contact information is available at the Renewable Energy Long Island website: <http://www.renewableenergylongisland.org/>.

Applicant Response: The PIP has been updated as requested.

Section 3.6 Host and Adjacent Landowners

1. DPS Staff recommends that the draft PIP Plan be revised to expand the definition of “adjacent landowners.” DPS Staff recommends identifying adjacent landowners as landowners with property within 2,500 feet of a solar collector array, or substation, or within 500 feet of other Facility components (e.g., collection lines, POI, O&M facility, etc.).

Applicant Response: The definition of adjacent landowner provided in the October 2017 PIP matches the definition of “Adjacent or Contiguous” as set forth in 1000.2(a) of the Article 10 regulations, and therefore remains the same, to ensure consistency with this defined term’s use throughout the regulations and studies required under Article 10. Please note that the Riverhead Solar 2 PIP contemplates providing public notice of events such as information sessions and filings to a much broader stakeholder audience than merely “adjacent landowners,” as defined in the PIP or suggested by DPS in this comment. See Riverhead Solar 2 PIP Section 5. Notices would be placed in newspapers, distributed via mailing lists for any interested parties, posted on the Project website, and made available to local document repositories, municipalities and agencies involved in these proceedings. The range of landowners and residents identified in DPS’ comment, as well as any other landowners or residents in the Project Area, will be provided the same public notice opportunities regardless of their property’s adjacency to proposed Project components. Community members adjacent to the Facility will not receive any more or any less notice than individuals within the broader Project Area. In addition, many of the adjacent landowners are the same landowners who are selling/leasing

property for the development of the Facility. Therefore, the term “adjacent landowner” will be used in the context of resource and impact characterizations required under the regulations, such as characterization of vegetation and measurement of setbacks.

2. The second paragraph of this section notes that the final layout will be determined by incorporating further input from stakeholders, as well as processing data from fieldwork. It further states that the specific host and adjacent landowner information is not included in the PIP Plan. The Applicant should explain when the Company intends to develop a final Project layout and how the Company plans to include host and adjacent landowners during early Project planning phases. DPS Staff recommends that the Applicant adds the following statement to this section: “Participating and adjacent landowners will be included in mailings, outreach activities and notifications that are provided to the stakeholders identified in this PIP Plan and as the Facility progresses. However, for privacy purposes, the stakeholder list may include addresses or parcel numbers rather than landowner identification.”

Applicant Response: The PIP has been updated to include DPS’s recommended statement above.

Section 3.8 Environmental Justice Communities that will be Affected by the Proposal

1. Given DPS Staff’s recommendation to extend the Study Area, the Applicant should review the location of the environmental justice communities in the Towns of Brookhaven and Southampton, which are two miles east of the Project boundary. If it is determined that these communities fall within the Study Area, the Applicant should revise this section to include a discussion of outreach activities targeted to any minority group(s).

Applicant Response: Please see response to comment #1, Section 2.3 (Study Area). Based on this response, the Study Area boundary has not been revised.

2. This section should include a new figure that identifies potential environmental justice communities and their location relative to the Study Area boundary.

Applicant Response: Please see response to comment #1, Section 2.3 (Study Area). Based on this response, the Study Area boundary has not been revised.

Section 4.0 Language Access

1. Article 10 regulations note that the PIP Plan needs to identify languages other than English spoken by 5,000 or more persons in any 5-digit zip code in the Study Area **and** by a significant population of persons in close proximity to the proposed Facility. Table 1 indicates that there are over 3,000 people that speak a language other than English in the 11901 zip code. However, it is unclear if this figure represents one language or multiple languages. This section should provide a chart with a more detailed breakdown of the number of languages spoken within the 11901 zip code. The chart should include

the total population, the number of residents that speak English, the name of each of the most prevalent non-English languages spoken and the number of people who speak those languages. A more detailed description of the languages spoken and the proximity of the population to the Project will help clarify whether the Applicant needs to address a specific non-English speaking community. If the Applicant determines that a significant population speaks another language other than English, the revised PIP Plan should include the measures that will be taken to accommodate this community (e.g. translation of key outreach materials, an interpreter present at the open houses, etc.).

Applicant Response: The PIP has been updated as requested.

Section 5.0 Proposed Public Involvement Program

Section 5.1 Project Contact Information

1. In the revised PIP Plan, DPS Staff recommends that the Applicant provide the toll-free telephone number in this section.

Applicant Response: The PIP has been updated as requested.

2. DPS Staff recommends that in the revised PIP Plan, the Applicant indicate how it will advertise the hours of the field office other than on the Project website. The Applicant should clearly state the hours of operation when Project representative(s) will be available to the public. This section should also indicate how the company will address calls/comments received on the local and toll-free line during non-business hours.

Applicant Response: The Applicant will establish a toll-free number to allow interested parties to reach a project representative with telephone inquiries. When Project representatives are unavailable during normal business hours or during non-business hours, interested parties with questions or comments will be encouraged to leave a voicemail message. When the number is established, it will be included on the Project Website and used in future outreach efforts.

The PIP also indicates that a local office will be established (address and hours of operation to be determined) where interested parties may speak with project representatives. In addition to the website, local office hours and the toll-free number will be provided in all mailings and notifications.

3. Since DPS Staff's recommendation is to extend the study area to include the Towns of Brookhaven and Southampton, the Applicant should consider a repository site in that area, such as the Longwood Public Library or Center Moriches Free Public Library.

Applicant Response: Please see response to comment #1, Section 2.3 (Study Area). Based on this response, the Study Area boundary has not been revised.

4. See Section 5.6 comments re: Project Website.

Applicant Response: This information has been included in the revised PIP as requested.

Section 5.5 Activities to Educate the Public on the Proposal, Process, and Funding

1. A preliminary schedule with milestones and opportunities for public involvement should be included to the best of the Applicant's ability.

Applicant Response: The PIP has been updated to indicate the initial public information meeting will be held during the latter part of the first quarter of 2018.

2. The Applicant indicated that it would "attend Town meetings." The Applicant should clarify whether these meetings include the Towns of Brookhaven and Southampton.

Applicant Response: The Applicant does not intend on regularly attending meetings in these Towns because they will not be affected by the proposed Facility. In the event that either Town requests information regarding the Facility, or a presentation from Applicant on the proposal, Applicant will work with the Towns to arrange that, and will include it in the PIP tracking log.

Section 5.5.1 Public Meetings

1. The Applicant needs to provide the anticipated date or an estimated time-frame for when it intends to conduct the open-house meetings/presentations for the planned open house events.

Applicant Response: The PIP has been updated to indicate the initial public information meeting will be held during the latter part of the first quarter of 2018.

Section 5.5.2 Educational Materials

1. Written materials, including the mass mailing to announce the initial set of public meetings, should include Project contact information, the Project website address, an invitation to join the stakeholder list and the location of the document repositories.

Applicant Response: Appropriate written materials will include the referenced information.

Section 5.6 Project Website

1. DPS Staff recommends that in the revised PIP Plan, the Applicant indicate that the website is live and all information has been updated, or state an approximate time when materials will become available on the Project website and is available to the public. The Applicant should also provide the URL.

Applicant Response: This information has been included in the revised PIP as requested.

2. The website should provide information that is in the PIP Plan about the response period for inquiries and comments received. A response process should include same day recognition that a request was received. A response should be sent no more than 2-3 days after the inquiry or comment was received, when feasible. If the request involves obtaining written documents, the response should include an estimated mailing date of the materials.

Applicant Response: The PIP has been updated to describe how email inquiries will be processed.

Section 5.7 Notifications

1. The Applicant indicates that the stakeholder list will be notified when the PSS and Application are filed. DPS Staff recommends providing an updated stakeholder list with the filings, including host and adjacent landowners and parties identified through the Applicant's outreach efforts, as well as proof that a mailing has occurred.

Applicant Response: The Applicant will notify all stakeholders of the filings of the PSS and Application and will provide proof that such notification has occurred.

Required Airport/Heliport Pre-Application Consultation

1. DPS Staff advises that the Brookhaven Calabro Airport should be added to the list of stakeholders to be consulted throughout the Article 10 process.

Applicant Response: The PIP has been updated as requested.

Exhibit A: Master List of Stakeholders/Notification List

1. DPS Staff recommends that the stakeholders/notification list be revised to include the contacts noted in the comments on Section 3.0.

Applicant Response: The PIP has been updated as requested.

2. DPS Staff advises that the Public Service Commissioners should not all be listed for Notification.

Applicant Response: The PIP has been updated as requested.

3. DPS Staff questions providing service directly to the United States Department of Defense, Secretary of Defense.

Applicant Response: The United States Department of Defense, Secretary of Defense has been removed from the Master List of Stakeholders.

4. The following contacts for NYS DPS should be included on the Stakeholder/Notification List: James Denn, Public Information Officer; Lorna Gillings, Outreach Contact; Andrea Cerbin, Assistant Counsel; and Cassandra Partyka, Assistant Counsel. Andrew Davis is with the Department's Office of Electric Gas and Water.

Applicant Response: The PIP has been updated as requested.

5. The list should include town clerks to ensure dissemination of notices to board members.

Applicant Response: The PIP has been updated as requested.

Exhibit B: Goals and Objectives for Stakeholder Involvement

1. DPS Staff recommends that this list be revised to include questions from stakeholders and the responses provided by the Applicant.

Applicant Response: The Applicant will document written questions received from stakeholders and associated responses. The format for such documentation will be determined.

Exhibit C: Example Meeting Log

1. The Applicant should provide a log that has been filled in with Project activities/public outreach to date.

Applicant Response: Exhibit C of the PIP has been updated as requested.

2. For entries where the Applicant indicates that it has conducted a mailing to the stakeholder list (e.g. prior to the open house meetings), the Applicant should provide an affidavit stating that it used its stakeholder list (including participating and/or adjacent landowners) and file a copy of the list with the Secretary to the Commission.

Applicant Response: The Applicant will provide affidavits and proofs of service for notices required by the regulations, such as notice of the PSS filing. For other notices and public outreach efforts, such as notice of open house meetings and mailings, Applicant will track those communications in PIP tracking logs and provide summaries of outreach efforts, including copies of advertisements and mailers, in the PSS and the Application.

We look forward to working with the New York State Board on Electric Generation Siting and the Environment, the DPS, and Project stakeholders in review of this project. If you have any questions, please feel free to contact me at (518)438-9907.

Respectfully,

/s/ Laura K. Bomyea, Esq.

James A. Muscato II

Kristin L. Pratt

Laura K. Bomyea

Young/Sommer LLC

Attorneys for Riverhead Solar 2, LLC