

July 30, 2018

Via Email

Hon. James Costello\Administrative Law Judge

NYDPS

Empire State Plaza

Albany NY

Hon. Maria E. Villa

Administrative Law Judge

NYSDEC

625 Broadway,

Albany NY

Re: Motion in Case No. 15-F-0122: Application of Baron Winds LLC for a Certificate of Environmental Compatibility and Public Need to Article 10 to construction a Major Electric Generating Facility in the Towns of Cohocton, Dansville, Fremont, and Wayland, County of Steuben, NY-**Motion for Corrective Actions under public involvement as prescribed by the PIP, Article 10 Law and Regulations as well as any other means to properly notify and engage the public.**

Dear Judge Costello and Judge Villa,

Please accept this as a Motion for Corrective Actions under public involvement as prescribed by the PIP, Article 10 Law and Regulations as well as any other means to properly notify and engage the public. The timing is dictated by the actions of Baron Winds and the upstream designations and transfers. This motion is not intended to question the actual transfer that was initiated in December of 2017 under Section 68, 69 or 70 nor PSL 2.13.

**In the accepted PIP, the following was required of Baron Wind:**

*5.4 WEBSITE*

*The Applicant will establish a user friendly website in plain English that describes the Project (<http://everpower.com/baron-winds-wind-project-steuben-county-ny/>). This website provides information regarding the Article 10 process, and will continue to provide Project updates throughout the development and construction phases of the Project **to keep the community informed of the***

**Project's status. For example, additional maps will be added to the website as the Project layout evolves, and notices will be posted the website prior to various milestones and public meetings/outreach events.**

In addition to the Project updated, the Applicant anticipates that the website will include: • Project description; • Project benefits and need; • Summary of permitting requirements; • Links to the Siting Board Article 10 Public Information Coordinator, the Siting Board home page, and case-specific documents; • Information on the Article 10 process; • Summary of the Intervenor Funding process and how to apply; • **Project layout figures and photosimulations/renderings**; • **Project contact information, including email address and toll free telephone number** • Copies of Article 10 and related licensing documents; • **A schedule that lists dates/times/locations for outreach events and key milestone dates, such as when the application will be filed; and** • **Tracking Reports summarizing the Project's PIP activities to date, including summaries of stakeholder interactions, comments, and questions.**

As indicated above, **the website includes Project contact information (email address and toll free telephone number)**. The Applicant intends to respond directly to all substantive inquiries and comments submitted to the Project contact, and will document all such correspondence. Email and postal addresses collected through the website will be added to the master stakeholder list.

#### 5.6 ACTIVITIES TO ENCOURAGE STAKEHOLDER PARTICIPATION IN THE CERTIFICATION PROCESS

Beyond the activities described above in Sections 5.1 through 5.5, the Applicant will identify additional, practical measures to encourage stakeholder participation during the certification process. **It is anticipated that this will be an ongoing, evolving process throughout all phases of the Article 10 review process (preapplication phase, application phase, hearing and decision phase, and post-certification phase).**

The Applicant will **track its Public Involvement Program and provide regular updates to DPS Staff. Specifically, the Applicant will maintain a Meeting Log that will provide specifics on all meetings, including dates, locations, attendees, purpose, and follow-up action items. An example Meeting Log is included as Exhibit C of this document.**

**As previously stated, the Applicant intends to hold three open house style public meetings prior to submittal of the PSS, anticipated to be May and July, 2015. In addition, between the two public**

*meetings there will be a mass mailing of educational materials provided to stakeholders, as well as additional addresses solicited from public meetings and the Project website. In addition, the Project website will be updated continuously with Project developments, meetings, and announcements to keep stakeholders and the public informed.*

The relief requested is 1-7 as follows:

1. **More timely and immediate updating of PIP tracking.**

The last update was over 6 months ago.

According to Baron Winds, the Project website will be **updated continuously** with Project ***developments, meetings, and announcements to keep stakeholders and the public informed.*** ***AND, that The Applicant will track its Public Involvement Program and provide regular updates to DPS Staff, Specifically, the Applicant will maintain a Meeting Log that will provide specifics on all meetings, including dates, locations, attendees, purpose, and follow-up action items. An example Meeting Log is included as Exhibit C of this document.***

This is not intended to lay blame but to immediately bring PUBLIC transparency and keep the public CONTINUOUSLY informed.

2. **ONE website or cross link to act as one website with all information easily accessed as promised including ownership, contact information, current photosimulations and maps and continuous updates on Project developments, meetings and announcements to keep the public continuously informed.**

Both Baron Wind websites are running; one for Innogy and one for Everpower. NEITHER reference nor links each other! The submission of the **application** was under the EDR website.

The information on both are NOT the same. Missing in both are many of the elements listed in the PIP:

*In addition to the Project updated, the Applicant anticipates that the website will include:*

- Project description;
- Project benefits and need;
- Summary of permitting requirements;
- Links to the Siting Board Article 10 Public Information Coordinator, the Siting Board home page, and case-specific documents;
- Information on the Article 10 process;
- Summary of the Intervenor Funding process and how to apply;
- Project layout figures and photosimulations/renderings;
- Project contact information, including email address and toll free telephone number
- Copies of Article 10 and related licensing documents;
- A schedule that lists dates/times/locations for outreach events and key milestone dates, such as when the application will be filed; and
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*Tracking Reports summarizing the Project's PIP activities to date, including summaries of stakeholder interactions, comments, and questions.*

*As indicated above, the website includes Project contact information (email address and toll free telephone number). The Applicant intends to respond directly to all substantive inquiries and comments submitted to the Project contact, and will document all such correspondence. Email and postal addresses collected through the website will be added to the master stakeholder list.*

**3. The relief for the AG Code is partially resolved; the website is still the issue.**

The Attorney General's Wind Code of Conduct was signed by the new entities including Innogy and two IRIS Wind LLC's and acknowledged by the AG mid July 2018. Thank you. But yet again it appears only on the new Innogy Baron Wind website.

**4. Request for "copies of" or "content of" or "terminology used" in legal documents that are signed under the transfer AND will change or impact the state, county, municipality or the Article 10 process or project or content of any Exhibits or submissions already provided; Included but not limited to new leases, good neighbor contracts, liens etc.**

**If the form or content changes the application, than the applicant should start over by definition of acceptance of transfer.**

**5. Proper Notification of the public under Article 10 as well as Baron Winds' promise in the PIP.**

To date, the public meetings noticed under PIP (the Applicant intends to hold three open house style public meetings prior to submittal of the PSS, anticipated to be May and July, 2015) came before the shift of turbines to Cohocton. While there is continuous presence of Baron Winds representative in Freemont with their wind law under review, there has been lacking representation and discussion in Cohocton. Most of the public are under the impression that Cohocton is receiving at most 2 turbines. **No matter who is at fault, this has to be corrected such that the public can participate in the process and request intervenor funds prior to the acceptance of the application which by definition is NOT timely :**

**As per Article 10 definition's (ah) Public Involvement Program (PIP): A series of coordinated activities that provides a variety of effective public participation opportunities by which public concerns can be identified as early as possible throughout the various stages of the decision-making process, ensures communication between stakeholders and an applicant, and results in education of the public as to the specific proposal and the Article 10 process.**

**And 1000.7 assuming a change in location of more than 25 turbines is considered an alternative-**

## 1000.7 Publication and Content of Notices

(f) If an alternative to the applicant's proposal that was not listed as reasonable and available in the application is subsequently proposed by any party, the applicant shall give prompt notice of such alternative, unless the presiding examiner rules that such alternative is not reasonable and available or that further notice is unnecessary to substantially inform the public of the location of the proposed alternative. The notice shall include text and a map(s) at a size and level of detail to substantially inform the public of the alternative (unless the publishing newspaper determines that inclusion of a map is infeasible) and the name, address, telephone number and the E-mail address of a representative of the party proposing such alternative from whom further information can be obtained.

6. According to Article 10, 1000.5 there should exist-

**(6) a description of the applicant, its formation, status, structure, holdings, affiliate relationships, powers (including whether it has or will seek to obtain the power of eminent domain, either directly or indirectly), franchises and consents,**

The current correction of ownership NEEDS to include the entities mentioned in the AG's Code of Conduct....IRIS Wind Development and IRIS Wind Holdings; as well as, upstream ownership change as of May 2018, E.On and REW.

7. As per Article 10 the presiding examiner may require the applicant to publish notice:

**(g) At any significant point in the certification process, the presiding examiner may require the applicant to publish a notice, as described in this Section, containing appropriate information, such as:**

**(1) a brief description of the significant events in the certification proceeding that have occurred and those that are expected to occur;**

**(2) a statement that the record of the proceeding may be examined during normal business hours at the Offices of the DPS in Albany, New York, giving the address thereof, and, where the presiding examiner has so required, at specified public locations in the vicinity of the proposed site; and**

**(3) a statement that any person may file comments for the Board's consideration.**

Please accept this as a request for review of the presiding examiner to require the applicant to publish a notice to help uphold the goal as per 1000.4 of Public Involvement -

***To ensure throughout the Article 10 process that the Board is fully aware of the concerns of stakeholders and that the Board's consideration of an application is not delayed, it is the Board's policy to require applicants to actively seek public participation throughout the planning, pre-application, certification, compliance, and implementation process. It is also the Board's policy to encourage stakeholders to participate at the earliest opportunity in the review of the applicant's proposal so that their input can be considered.***

**It has been over 6 months since they have announced the initiation of Transfer. Public Involvement is a crucial element of the Article 10 Process. The public is not delaying the process and should be provided corrective actions and ample time.**

Respectfully,

Alice Sokolow