



Application for a Certificate of Environmental Compatibility and Public Need

for the

Coeymans Solar Farm

Town of Coeymans, Albany County, New York

Case No. 17-F-0617

Volume 1: Exhibits 1 to 22

Prepared for:



**Hecate Energy Albany 1 LLC and
Hecate Energy Albany 2 LLC**

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Prepared by:



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June 2019

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PATRICK A. SILER

VIA OVERNIGHT AND ELECTRONIC MAIL

June 7, 2019

Hon. Kathleen H. Burgess
Secretary
New York State Board on Electric Generation
Siting and the Environment
Three Empire State Plaza
Albany, New York 12233-1350

Re: Case 17-F-0617 – Application of Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Town of Coeymans, Albany County.

Dear Secretary Burgess:

Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC (collectively, “Hecate Albany” or the “Co-Applicants”), Co-Applicants in the above-captioned proceeding, are proposing to construct a major electric generating facility in the Town of Coeymans in Albany County, New York (the “Facility”). In order to construct the Facility, Hecate Albany is applying for a certificate of environmental compatibility and public need (“Certificate”) from the New York State Board on Electric Generation Siting and the Environment (“Siting Board”) pursuant to Article 10 of the Public Service Law (“PSL”) and the Siting Board’s regulations (16 NYCRR Part 1000 *et seq.*).

Pursuant to PSL § 164 and 16 NYCRR § 1000.6, Hecate Albany hereby files its Article 10 Application. Please find attached 10 paper copies and an electronic copy on compact disk of the Application. A check payable to the Department of Public Service (“DPS”) for the Application intervenor fee required by PSL § 164(6) and 16 NYCRR § 1000.10(b)(1) is being delivered to the Director of the Office of Finance and Budget at Three Empire State Plaza, Albany, New York 12233 on June 7, 2019 under separate cover.

Pursuant to 16 NYCRR § 1000.6(c)(1), enclosed with the Application is the pre-filed testimony of each expert witness whom Hecate Albany intends to offer at any hearing required

by PSL § 165. The pre-filed testimony includes the qualification of each witness and specifies the portion of the Application for which each witness is responsible or supports.

Pursuant to PSL § 164(2)(a) and 16 NYCRR § 1000.6(a), copies of the Application will be served on the parties identified on the enclosed Statutory Service List. An affidavit of service of the Application showing that a copy of the Application and accompanying documents were served on all those required to be served, as required by 16 NYCRR § 1000.6(c)(2), will be filed under separate cover.

Pursuant to 16 NYCRR §§ 1000.7(a) and 1000.7(b)(1), a Notice of Submission of Application with a summary and map showing the location of the Facility (“Notice of Submission of Application”) was published in the following newspapers at least three days in advance of the date the Application is being filed: the Times Union, Ravena News-Herald, and Spotlight. Pursuant to 16 NYCRR §§ 1000.6(c)(3) and 1000.7(I), the Notice of Submission of Application with proofs of publication are attached hereto.

In addition, pursuant to 16 NYCRR §§ 1000.7(b)(2) and (b)(3), at least three days in advance of the date on which the Application is being filed, Hecate Albany served a copy of the Notice of Submission of Application on each member of the New York State Legislature in whose district the Facility is proposed to be located and on all persons who have filed a statement with the Secretary to the Siting Board requesting that they receive all such notices. Copies of the Notice of Submission of Application with proofs of service are attached hereto.

Pursuant to 16 NYCRR § 1000.6(c)(4), attached hereto (without enclosures) is a copy of a letter-brief to Presiding Examiner Leary, requesting that certain information contained in appendices to the Application be exempt from public disclosure under the New York Freedom of Information Law (“FOIL”) (Public Officers Law (“POL”) §§ 84–90) and Subpart 6-1 of the New York State Public Service Commission’s regulations. Pursuant to 16 NYCRR § 6-1.3(b), confidential information has been redacted from the version of the Application enclosed herewith and served pursuant to PSL § 164(2)(a) and 16 NYCRR § 1000.6(a).

Pursuant to 16 NYCRR § 1000.6(c)(5), the following are the names, addresses, telephone numbers, and e-mail addresses of the Co-Applicants and their attorney:

Co-Applicants:

Gabriel Wapner
Hecate Energy, LLC
621 W. Randolph Street
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(833) 529-6597
contact@albanycountysolar.info

Co-Applicants’ Counsel:

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25 Eagle Street
Albany, New York 12207
(518) 465-9313
sml@readlaniado.com

Please do not hesitate to contact me if you have any questions regarding this filing.

Respectfully submitted,

READ AND LANIADO, LLP
Attorneys for Hecate Energy Albany 1
LLC and Hecate Energy Albany 2 LLC

By: /s/
Sam M. Laniado
Tyler W. Wolcott
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tyler@readlaniado.com

Enclosures

cc: DMM Party List
Statutory Service List

Application of Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Town of Coeymans, Albany County.

AFFIDAVIT OF SERVICE

I, Steven Sullivan of Power Communications, in Saratoga Springs, New York, caused the document entitled 'Notice of Submission of Application' for the Coeymans Solar Farm proposed in Albany, New York', to be sent via First Class U.S. Mail and/or email on May 29, 2019 to the required parties, as identified in 16 New York Codes, Rules and Regulations § 1000.7. A list of the recipients to whom this document was sent and a copy of the Notice of Submission of Application are attached hereto.



Steven Sullivan

Sworn to me before this 30th day of May 2019



Notary Public

KORIE LEE ARLIN
Notary Public, State of New York
No. 01AR6368220
Qualified in Saratoga County
Commission Expires DEC 11, 21

Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC, 40-Megawatt Solar Photovoltaic
Generation Project, Town of Coeymans, New York

NOTICE OF SUBMISSION OF APPLICATION

Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC (“Hecate Albany” or “Co-Applicants”) are seeking authority from the New York State Board on Electric Generation Siting and the Environment (the “Siting Board”) to construct a 40-megawatt (“MW”) solar photovoltaic electric generating facility (the “Facility”) in the Town of Coeymans, Albany County, New York, under Article 10 of the New York State Public Service Law (“PSL”). Pursuant to PSL § 164 and 16 NYCRR § 1000.7, Hecate Albany hereby provides notice that, on or about June 4, 2019, it intends to file its Application with the Siting Board for a Certificate of Environmental Compatibility and Public Need authorizing construction and operation of the Facility.

The Facility components will include solar photovoltaic panel arrays connected by underground, and possibly overhead, collection lines that will generate electricity to be delivered into National Grid’s transmission system via onsite interconnections to two existing transmission lines that cross the Facility site. The Facility is proposed to be constructed on leased and/or purchased, rural, private land that is agricultural in nature.

The Facility will safely generate enough clean, renewable electricity to power approximately 10,000 households. The Facility will not emit or discharge any pollutants, and it will avoid other impacts associated with traditional fossil-fueled generating facilities, such as water usage. The Facility will also contribute to the State Energy Plan’s goal of generating 50% of all electricity consumed in the State with renewable resources and reducing greenhouse gas emissions by 40% by the year 2030. Further, the Facility will benefit the local community through short- and long-term jobs and economic growth, increased tax revenues, and lease payments to local farmers that will help them maintain farming operations on other properties.

Construction and operation of the Facility will not result in negative impacts to health, air, or water resources. The Facility is located on land that is already cleared and therefore avoids disturbances to forested lands to the maximum extent practicable. All impacts resulting from construction and operation of the Facility have been minimized to the maximum extent practicable.

The Co-Applicants intend to request a Water Quality Certification (“WQC”) pursuant to Section 401 of the Federal Clean Water Act. The WQC is necessary to obtain a permit from the U.S. Army Corps of Engineers.

The Application contains all the information stipulated to by parties to this Article 10 proceeding. Studies and analyses as required by the executed stipulations address many disciplines such as land use, noise, preliminary engineering, avians, and decommissioning. The Siting Board will determine whether the Application is compliant with the Article 10 requirements. Once it is deemed compliant, the Administrative Law Judges (“ALJs”) assigned to this proceeding will schedule a public hearing and issue a notice that intervenor funds, in the amount of \$40,000, will be available for eligible parties participating in the Application phase. The ALJs will also schedule a pre-hearing conference to identify parties, award intervenor funds, identify issues for the hearing, and establish a case schedule. After the hearings, intervenors may submit briefs to the ALJs who will then issue a recommended decision, upon which the Siting Board will render its decision on whether to certify the Facility and under what conditions. State law requires that the Siting Board must render a decision on the Application within 12 months of its determination that the Application is compliant with the Article 10 requirements.

Interested, eligible municipal and local parties may apply for intervenor funding to be used to pay for expenses such as administrative, attorney, and/or consultant fees. A guide to applying for intervenor

funding can be found on the New York State Department of Public Service's ("DPS") website by using the following direct link: goo.gl/avcprS.

Any interested person wishing to receive all notices concerning the Facility may submit a request to Hon. Kathleen H. Burgess, Secretary to the Siting Board, New York State Public Service Commission, Agency Building 3, Albany, NY 12223-1350 or electronically to secretary@dps.ny.gov. Documents concerning the Siting Board's review of the Facility may be viewed at the DPS website located at www.dps.ny.gov by clicking "Search" on the homepage and then entering Case 17-F-0617 in "Search by Case Number."

Additional information on how to participate in this proceeding may be obtained by contacting Hecate Albany's project representative or the Siting Board Public Information Coordinator:

Hecate Albany Representative

Gabriel Wapner
Hecate Energy, LLC
621 W Randolph St.
Chicago, IL 60661
833-529-6597
contact@albanycountysolar.info

Siting Board Public Information Coordinator

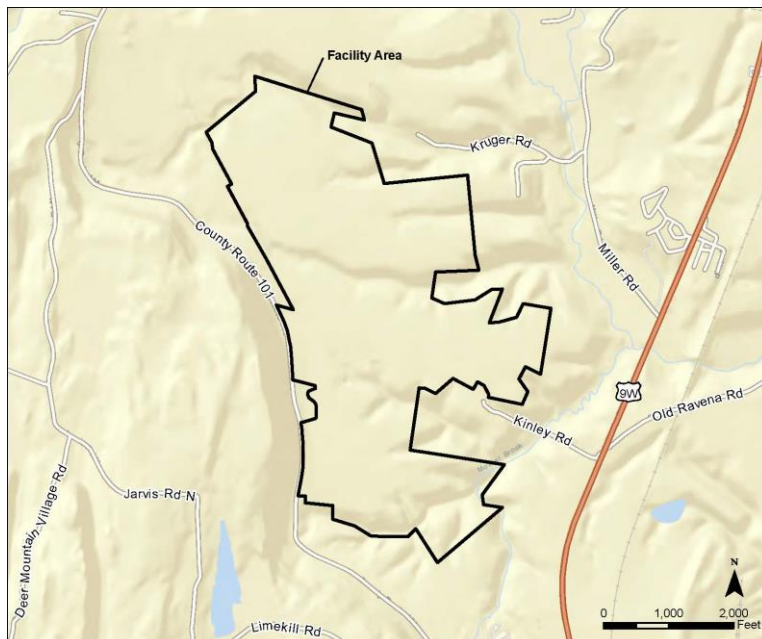
James Denn
NYS Department of Public Service
3 Empire State Plaza
Albany, NY 12223
518-474-7080
james.denn@dps.ny.gov

To find more information, please go to the Siting Board's website (www.dps.ny.gov/SitingBoard) or the Project website (<https://www.albanycountysolar.info/>), or call the Project's toll-free number: 833-529-6597.

A copy of the Application will be served on the Town Supervisor of the Town of Coeymans. The Application, when filed, may be examined during normal business hours at the Offices of the Department of Public Service at 3 Empire State Plaza, Albany, NY 12223, and at the following local document repositories:

- County Clerk Office, 16 Eagle Street, Albany, NY 12207-1077
- Coeymans Town Clerk Office, 18 Russell Avenue, Ravena, NY 12143
- RCS Community Library, 95 Main Street, Ravena, NY 12143
- Bethlehem Public Library, 451 Delaware Avenue, Delmar, NY 12054

Below is a map that shows the location of the Facility site.



Master List of Stakeholders

New York State Department of Agriculture and Markets

Richard Ball, Commissioner
10B Airline Drive, Albany, NY 12235
(585) 457-8876
info@agriculture.ny.gov

New York State Department of Agriculture and Markets

Matthew Brower, Environmental Analyst
10B Airline Drive, Albany, NY 12235
(585) 457-2851

NYSDEC

Basil Seggos, Commissioner
625 Broadway, Albany, NY 12233-1011
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NYSDEC, Central Office

Daniel Whitehead, Director
Division of Environmental Permits, Major Project Management
625 Broadway, Albany, NY 12233-1750
(518) 402-9167
deppermitting@dec.ny.gov

NYSDEC, Region 4

Keith Goertz, Regional Director
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NYSDEC, Division of Environmental Permits

Kristy E. Primeau, Environmental Analyst
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NYS Energy Research and Development Authority

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(518) 862-1090
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NYS Energy Research and Development Authority

Richard Kaufmann, Chair
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NYS Office of General Services

RoAnn Destito, Commissioner
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(518) 474-3899
RoAnn.Destito@ogs.ny.gov

Empire State Development

Howard Zemsky, Commissioner
633 Third Avenue, Floor 37, New York, NY 10017
nys-nyc@esd.ny.gov

NYS Division of Homeland Security and Emergency Services

Jerome Hauer, Commissioner
1220 Washington Ave., State Office Campus, Building 7A, Suite 710, Albany, NY 12242
(518) 242-5000
website@dhses.ny.gov

New York State Office of Parks, Recreation, and Historic Preservation

Regional Director
19 Roosevelt Drive, Saratoga Springs, NY 12866
(518) 584-2535
Email not available

NYS Department of Public Service

James Denn, Public Information Officer
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NYS Department of Public Service

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NYS Department of Public Service – Office of Electric, Gas and Water

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NYS Department of Transportation, Region 1

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NYS Thruway Authority

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New York Independent System Operator

Michael Bemis, Board Chair
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**New York State Hudson River Valley Greenway –
Greenway Conservancy for the Hudson River Valley**

Kevin M. Burke, Acting Chair
625 Broadway, 4th Floor, Albany, NY 12207
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Empire State Development Corporation

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207 Genesee Street Utica, NY 13501
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**Stockbridge-Munsee Community Band of Mohican
Nation**

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Saint Regis Mohawk Tribe

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communications@srmt-nsn.gov

US Senate

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Leo W. O'Brien Federal Office Building, 11A Clinton
Avenue, Room 821, Albany, NY 12207
(518) 431-0120

US Senate

Charles E. Schumer, US Senator
Leo O'Brien Building, Room 420, Albany, NY 12207
(518) 431-4070

US House of Representatives

Paul Tonko, Representative, 20th Congressional District
19 Dove Street, Suite 302, Albany, NY 12210
(518) 465-0700

NYS Department of State

Rossana Rosado, Secretary of State
One Commerce Plaza
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(518) 473-2293
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New York State Senate

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New York State Assembly

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New York State Department of Agriculture and Markets

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Albany County Industrial Development Agency

Hon. Gary W. Domalewicz, Chairman
Harold L. Joyce Albany County Office Building
112 State Street, Room 740, Albany, NY 12207
(518) 466-7952

Albany County Executive

Harold L. Joyce Albany County Office Building
112 State Street, Room 1200, Albany, NY 12207
(518) 447-7000

Albany County

Bruce A. Hidley, County Clerk
County Court House, Room 128, 16 Eagle Street, Albany,
NY 12207-1077
(518) 487-5100
countyclerk@albanycounty.com

Albany County Economic Development, Conservation & Planning

Harold L. Joyce Albany County Office Building
112 State Street, Room 1200, Albany, NY 12207
(518) 447-5670

Albany County Soil and Water Conservation District

P.O. Box 497, 24 Martin Road, Voorheesville, NY 12186
(518) 765-7923

Town of Coeymans

Phillip A. Crandall, Supervisor
18 Russell Ave, Ravena, NY 12143
(518) 756-6006
pcrandall@coeymans.org

Town of Coeymans

Diane Millious, Town Clerk
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(518) 756-2100
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Town of Coeymans Planning Board

Ernest Quinto, Chair
18 Russell Ave, Ravena, NY 12143
(518) 756-6006
planningboard@coeymans.org

Town of Coeymans Conservation Advisory Council

Sylvia Lawler, Chair
P.O. Box 656, Coeymans, NY 12045
(518) 756-2100
cac@coeymans.org

Town of Coeymans Police Department

1st Sergeant Daniel Contento, Officer in Charge
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(518) 756-2029
chiefofpolice@coeymans.org

Town of Coeymans Fire Company

67 Church Street, Coeymans, NY 12045
(518) 756-2027

Town of Coeymans Highway Department

Scott D. Searles, Highway Superintendent
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(518) 756-2251
ssearles@coeymans.org

Town of Coeymans Town Board

Thomas Dolan, Council Member
tdolan@coeymans.org

Village of Ravena

Hon. William Misuraca, Mayor
15 Mountain Road, Ravena, NY 12143
(518) 756-8233

Village of Ravena

Susan M. King, Village Clerk
15 Mountain Road, Ravena, NY 12143
(518) 756-8233
ravenaclerk@gmail.com

Village of Ravena

Jeff D'Ambrosio, Fire Chief
116 Main Street, Ravena, NY 12143
(518) 756-2033

Town of Bethlehem

David VanLuven, Supervisor
445 Delaware Avenue, Room 106, Delmar, NY 12054
(518) 439-4955 ext. 1164
dvanluven@townofbethlehem.org

Town of Bethlehem

Nanci Moquin, Town Clerk
Town Hall – 445 Delaware Avenue, Room 112, Delmar, NY 12054
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Ravena-Coeymans-Selkirk Central School District

Dr. Brian Bailey, Superintendent of Schools
District Office – 15 Mountain Road, Ravena, NY 12143
(518) 756-5200 ext. 6003
bbailey@rcscsd.org

South Albany Air Navigation Facility

Ted Zabinski, Airport Manager
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(518) 281-5430
ted@southalbanyairport.com

Cross' Farm Air Navigation Facility

John N. Cross, Airport Owner
Route 144, Selkirk, NY 12158
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Albany International Airport

Albany County Airport Authority
Rev. Kenneth J. Doyle, Chairman
Administration Building – Second Floor, Albany, NY 12211
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Columbia County Airport

Dean Knox, Airport Manager
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(518) 828-7011

Richmore Aviation

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PO Box 423, Hudson, NY 12534

Lafarge Ravena Cement Plant

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Lafarge and Callahan Quarries

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Albany County American Legion (3rd District)

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Albany County Rural Housing Alliance, Inc.

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Main Office – PO Box 407, 24 Martin Road, Voorheesville, NY 12186
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Alliance for Positive Health

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Niagara Mohawk Power Corporation

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Enterprise Products Operating LLC, TEPPCO Northern Region

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Scenic Hudson

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Mohawk Hudson Land Conservancy

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Hecate Energy LLC

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Sandra Blemis

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Guy Hazen

5 Deer Mountain Village Road Exd, Ravena, NY 12143

Charles Wickham

126 Maple Avenue, Selkirk, NY 12158

Ethan Wheeler

638 Bridge Street, Selkirk, NY 12158

Bob Diy

310 County Route 101, Selkirk, NY 12158

Linda Jasinski**Unnamed Stakeholder****New York Department of State, Office of Planning and Development**

One Commerce Place, 99 Washington Avenue, Suite 1010,
Albany, New York 12231-0001

518-474-6000

opd@dos.ny.gov

NYSDEC Region 4 Schenectady Office, Bureau of Wildlife

1130 North Westcott Road, Schenectady, NY 12306

518-357-2154

Wildlife.r4@dec.ny.gov

Albany County Department of Public Works

Lisa M. Ramundo, Commissioner

449 New Salem Road, Voorheesville, NY 12186

Town of Bethlehem, Parks & Recreation Department

Jason Gallo, Administrator

261 Elm Avenue, Delmar, New York 12054

518-439-4955 option 3

parks@townofbethlehem.org

Abraham Houghtaling House

Jesse S. Wichmann, Property Owner

54 Church Street, Coeymans, NY 12045

Bethlehem Grange No. 137

Parcel 121.03-2-29, Property Owner

24 Bridge Street, Selkirk NY 12158

Coeymans--Bronck Stone House

David F. Kunz, Property Owner

20 Main Street, Coeymans, NY 12045

Coeymans School

Civill Housing Development Fund Co., Property Owner

8 Civill Ave, Coeymans, NY 12143

First Reformed Church of Bethlehem

30/38 Church Road, Bethlehem, NY 12158

Fletcher Blaisdell Farm Complex

Albert D. McHugh, Property Owner

109 Westerlo Street, Coeymans, NY 12045

Dr. John Babcock, House

Harriet L W Brandow, Property Owner

101 Lasher Road, Bethlehem, NY 12158

Requa House

Charles Gerlies, Property Owner

2483 Ridge Road, Schodack Landing, NY 12156

Rowe Farm

Judith Cook, Property Owner

281 Bridge Street, South Bethlehem, NY 12158

Ten Eyck, Tobias, House and Cemeteries

Marc Hafensteiner, Property Owner

294 Old Ravena Road, Coeymans, NY 12158

**ADJACENT LANDOWNERS
(OBTAINED FROM TOWN OF COEYMANS ACCESSOR'S OFFICE)**

Adjacent Landowner

Marion Koch
362 Bridge Street, Selkirk, NY 12158

Adjacent Landowner

John Sipperly
49 Smith Ave, Selkirk, NY 12158

Adjacent Landowner

Mary Sipperly
48 Niver Ave, Selkirk, NY 12158

Adjacent Landowner

Janie Grainger
38 CR 101, P.O. Box 39
S. Bethlehem, NY 12161

Adjacent Landowner

Robin Covey
1 Owasco LN, S. Bethlehem, NY 12161

Adjacent Landowner

Robert Covey
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S. Bethlehem, NY 12161

Adjacent Landowner

Callanan Rd Improvement Co.
100 CR 101, P.O. Box 15097
Albany, NY 12212-5097

Adjacent Landowner

Callanan Rd Improvement
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Adjacent Landowner

Darrell Drevojan
361 CR 101, Ravena, NY 12143

Adjacent Landowner

Kevin Mabie
57 Swift Road, Voorhesville, NY 12186

Adjacent Landowner

David Blenis
339 CR 101, Ravena, NY 12143

Adjacent Landowner

Mount Moriah Ministries, Inc.
262 US 9W, Glenmont, NY 12077

Adjacent Landowner

Christine Driscoll
51 Bridle Path, Colonie, NY 12205

Adjacent Landowner

Ledgerock Apartments, LLC
334 Kings Road, Cossackie, NY 12051

Adjacent Landowner

Mark Flach
334 Kings Road, Cossackie, NY 12051

Adjacent Landowner

Blue Circle Atlantic Inc.
8700 Bryn Mawr Ave., Suite 300
Chicago, IL 60631

Adjacent Landowner

Joyce Behuniak
102 Krueger Road, Selkirk, NY 12158

Adjacent Landowner

Vladimir Kolodiychik
262 CR 101, Selkirk, NY 12158

Adjacent Landowner

Rachel Hegeman
258 CR 101, Selkirk, NY 12158

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Robert Day Jr.
310 CR 101, Selkirk, NY 12158

Adjacent Landowner

Robert Milkas
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Adjacent Landowner

George Langdon
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Adjacent Landowner

Joseph McHugh
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Adjacent Landowner

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164 Bridge Rd, P.O. Box 279, Selkirk, NY 12158

Adjacent Landowner

Lester McMullen
4 Bridge Road, Selkirk, NY 12158

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John JR Granich
38 Mountain Road, Ravena, NY 12143

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James Buono
64 Matthews Point, New Baltimore, NY 12124

Adjacent Landowner

Charles Golding
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Adjacent Landowner

George Schwencke
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Adjacent Landowner

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Adjacent Landowner

William Zinzow
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Adjacent Landowner

George Barna
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Adjacent Landowner

162 Miller Road LLC
28 E 28th Street, 9th Fl, New York, NY 10016-7943

Adjacent Landowner

Meilak's Mobile Home Court Inc.
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Adjacent Landowner

Ann Marie Vadney
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Adjacent Landowner

Hazel Lambert
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Adjacent Landowner

Lois Realty LLC
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Adjacent Landowner

Flach Dev Realty Retirement
1934 US 9W, P.O. Box 274, Glenmont, NY 12077

Adjacent Landowner

Alexander Audietis
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Adjacent Landowner

Lester McMullen
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Adjacent Landowner

Stephen Mantor
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Susan Keel
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Via Electronic Mail

June 7, 2019

Hon. Maureen Leary
Hon. Anthony Belsito
Co-Presiding Examiners
New York State Department of Public Service
New York State Board on Electric Generation Siting and the Environment
3 Empire State Plaza, 18th Floor
Albany, New York 12223-1350

RE: Case 17-F-0617 – Application of Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Town of Coeymans, Albany County.

Dear Judges Leary and Belsito:

Hecate Energy Albany 1 LLC and Hecate Energy Albany 2 LLC (“Hecate Albany”) hereby request that confidential status be granted to certain information being submitted as part of Hecate Albany’s Article 10 Application in the above-captioned proceeding, and that such information be exempt from public disclosure pursuant to the New York Freedom of Information Law (“FOIL”) (Public Officers Law (“POL”) §§ 84–90) and Subpart 6-1 of the New York State Public Service Commission’s (“Commission”) regulations, as made applicable to the New York State Board on Electric Generation Siting and the Environment (the “Board”) by 16 NYCRR § 1000.3.

Specifically, Hecate Albany seeks protection for the following documents, which are required for the Application but contain trade secrets, confidential commercial information, and/or critical energy infrastructure information:

- Appendix 5-A: System Impact Study Reports;
- Appendix 14-A: Estimated Costs for the Facility;
- Appendix F of Appendix 22-B: Avian Species-Specific Survey Reports; and
- Appendix 29-A: Site Restoration and Decommissioning Cost Estimate.

Section 6-1.4 of the Commission's regulations provides that a "party requesting confidential status shall submit the record containing such information to the presiding officer in electronic form or by mail and shall clearly identify the portions of the record considered to be confidential."¹ In addition, "the party submitting confidential information to the presiding officer shall also submit a comprehensive brief specifying in detail the reasons why such information should be accorded confidential status as provided for in section 6-1.3 (b)(2)."²

The Commission's regulations define a "trade secret" as "any formula, pattern, device or compilation of information which is used in one's business, and which provides an opportunity to obtain an advantage over competitors who do not know or use it."³ POL § 86(5) defines "critical infrastructure" as "systems, assets, places or things, whether physical or virtual, so vital to the state that the disruption, incapacitation or destruction of such systems, assets, places or things could jeopardize the health, safety, welfare or security of the state, its residents or its economy." Pursuant to 16 NYCRR § 6-1.3(b)(2) and POL § 87(2):

a person submitting trade secret or confidential commercial information to the Department shall clearly state the reason(s) why the information should be excepted from disclosure, as provided for in §87(2)(d) of the Public Officers Law. In all cases, the person must show the reasons why the information, if disclosed, would be likely to cause substantial injury to the competitive position of the subject commercial enterprise. Factors to be considered include, but are not necessarily limited to:

- (i) the extent to which the disclosure would cause unfair economic or competitive damage;
- (ii) the extent to which the information is known by others and can involve similar activities;
- (iii) the worth or value of the information to the person and the person's competitors;
- (iv) the degree of difficulty and cost of developing the information;
- (v) the ease or difficulty associated with obtaining or duplicating the information by others without the person's consent; and
- (vi) other statute(s) or regulations specifically excepting the information from disclosure.

Appendix 5-A: System Impact Study Reports

Appendix 5-A consists of the System Impact Study reports ("SISs") conducted by the New York Independent System Operator, Inc. ("NYISO") for the Coeymans Solar Farm (the "Facility").

¹ 16 NYCRR § 6-1.4(a)(1).

² 16 NYCRR § 6-1.4(a)(2).

³ 16 NYCRR § 6-1.3(a).

This information, if publicly disclosed, could pose a danger to electric system reliability and endanger “the health, safety, welfare or security of the state, its residents or its economy.” POL § 86(5). The NYISO considers its power flow, stability, and short-circuit data as critical energy infrastructure information and restricts access to it to those parties who agree to not disclose it to others. Furthermore, the Commission has consistently held that the information in such studies should be protected from public disclosure as critical infrastructure information.⁴ Accordingly, Appendix 5-A should be exempt from public disclosure.

Appendix 14-A: Estimated Costs for the Facility and Appendix 29-A: Site Restoration and Decommissioning Cost Estimate

Appendix 14-A consists of highly sensitive, proprietary information related to confidential financial data and capital cost estimates for the major components of the Facility. Similarly, Appendix 29-A consists of highly sensitive, proprietary information related to the estimated costs for site restoration and decommissioning. This information satisfies the definition of trade secret under the Commission’s regulations.

The information contained in both Appendix 14-A and Appendix 29-A was developed by Hecate Albany using its unique knowledge and experience. Thus, it would difficult for others to replicate the information. The information is not known outside of Hecate Albany’s business. This type of information is highly protected because it provides an opportunity to gain an advantage over competitors who do not know it.

Public dissemination of Appendix 14-A and Appendix 29-A would cause substantial economic harm to Hecate Albany and place it at a competitive disadvantage. It would prejudice Hecate Albany’s ability to secure the most cost-effective contracts for elements of the Facility and decommissioning if bidders in competitive procurements knew the estimated capital costs. No party to a negotiation over price would willingly disclose precisely how much it is willing to spend. Therefore, public disclosure of Appendix 14-A and Appendix 29-A would result in a “substantial injury to the competitive position” of Hecate Albany.

Moreover, the Commission has previously held that capital cost information is protected from disclosure as trade secret.⁵ Therefore, the cost estimates contained in Appendix 14-A and Appendix 29-A are trade secrets under the Commission’s regulations and should be exempt from public disclosure.

Appendix F of Appendix 22-B: Avian Species-Specific Survey Reports

⁴ See Case 06-T-0650, *N.Y. Regional Interconnect, Inc.*, Ruling Granting Protection for Critical Energy Infrastructure Information (July 31, 2008); Case 08-T-0746, *Village of Arcade & Noble Allegany Windpark, LLC*, Ruling Granting Request for Confidential Status (July 30, 2008); Case 08-T-0034, *Hudson Transmission Partners, LLC*, Ruling Granting Protection for Critical Energy Infrastructure Information (Apr. 25, 2008); Case 07-T-0140, *Noble Wethersfield Windpark, LLC*, Ruling Granting Protection from Disclosure of Critical Infrastructure Information (Mar. 15, 2007).

⁵ Case 08-T-0034, *Hudson Transmission Partners, LLC*, Ruling Granting Protection for Project’s Estimated Capital Costs (Mar. 6, 2008); Case 05-E-1222, *N.Y. Elec. & Gas Corp.*, Ruling Granting Trade Secret Protection to NYSEG’s Mobile Radio System Cost Estimates (Oct. 13, 2005).

Appendix F of Appendix 22-B contains the results of the grassland breeding bird and winter grassland raptor surveys conducted for Application. This information is exempt from public disclosure pursuant to POL § 87(2)(a) and Environmental Conservation Law (“ECL”) § 3-0301(2)(r).

Appendix F of Appendix 22-B identifies various avian species that are listed as endangered, threatened, or special concern by the State of New York. This appendix also identifies habitat used by such species. POL § 87(2)(a) exempts from public disclosure record that “are specifically exempted from disclosure by state” statute. ECL § 3-0301(2)(r) exempts from public disclosure information pertaining the habitats of State-listed species. Therefore, the information contained in Appendix F of Appendix 22-B is exempt from public disclosure.

For the foregoing reasons, the items described above qualify for exemption from disclosure under FOIL as trade secret, confidential commercial information, and/or critical infrastructure information.

Respectfully Submitted,
READ AND LANIADO, LLP
Attorneys for Hecate Energy Albany 1 LLC
and Hecate Energy Albany 2 LLC

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Attachments

cc: DMM Party List (w/o attachments)
Statutory Service List (w/o attachments)