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**Via Electronic Delivery**

August 10, 2018

Hon. Kathleen H. Burgess, Secretary  
New York State Board on Electric Generation  
Siting and the Environment  
Three Empire State Plaza  
Albany, NY 12223

Re: Case 16-F-0062 – Application of Eight Point Wind, LLC for a Certificate of  
Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a Wind  
Energy Project

Dear Secretary Burgess:

Please find attached for filing in the above-captioned case a Second Supplement to the Article 10 Application comprising the responses of Eight Point Wind, LLC to the deficiencies identified in the letter from the Chair, dated June 18, 2018, for the captioned project. The Second Supplement to the Article 10 Application sequentially presents the requests made in the Chair's letter followed by the applicable response.

Also attached is an affidavit of service affirming that service of the Second Supplement to the Article 10 Application was made on “. . . all entities entitled to receive a copy of the Application pursuant to PSL §164, as well as any additional parties on any established Party List in this proceeding.”

Feel free to contact the undersigned with any questions. Thank you.

Respectfully submitted,

READ AND LANIADO, LLP  
Co-Counsel for Eight Point Wind, LLC

By:                     /s/                      
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Attachments

cc: Service List (Statutory and DMM Party)

**Case 16-F-0062 - Application of Eight Point Wind, LLC**

**16 NYCRR § 1000.6(a) Service List**

**August 2018**

**Second Supplement to the Article 10 Application**

<b>NAME &amp; ADDRESS</b>	<b>NUMBER OF COPIES</b>
Hon. Kathleen H. Burgess Secretary to the Commission New York State Public Service Commission Empire State Plaza Agency Building 3 Albany, NY 12223-1350	5 CDs of entire application 12 paper copies of entire application
Graham Jesmer Assistant Counsel NYS Department of Public Service Three Empire State Plaza Agency Building 3 Albany, NY 12223-1350	1 paper copy of entire application
James Denn Public Information Coordinator NYS Department of Public Service 3 Empire State Plaza Albany, NY 12223	1 electronic copy of entire application (CD)
Administrative Law Judge Sean Mullany New York State Department of Public Service 3 Empire State Plaza Albany, NY 12223	1 paper copy of entire application
Andrew Davis, Utility Supervisor Office of Energy Efficiency and the Environment NYS Department of Public Service 3 Empire Plaza Albany, NY 12223-1350	1 electronic copy of entire application (CD) 2 paper copies of entire application
Basil Seggos, Commissioner NYS Department of Environmental Conservation  Attn: Mike Higgins, Project Manager 625 Broadway Albany, NY 12233	4 paper copies of entire application  2 electronic copies of entire application (CD)

**Case 16-F-0062 - Application of Eight Point Wind, LLC**

**16 NYCRR § 1000.6(a) Service List**

**August 2018**

**Second Supplement to the Article 10 Application**

<b>NAME &amp; ADDRESS</b>	<b>NUMBER OF COPIES</b>
Administrative Law Judge Lisa A. Wilkinson Office of Hearings and Mediation Services NYS Department of Environmental Conservation 625 Broadway Albany, NY 12233	1 paper copy of entire application
Paul D'Amato, Regional Director (Region 8) NYS Department of Environmental Conservation 6274 East Avon-Lima Road Avon, NY 14414	3 paper copies of entire application  2 electronic copies of entire application (CD)
Weintraub, Lawrence Assistant Counsel, Office of General Counsel NYS Department of Environmental Conservation 625 Broadway Albany, NY 12233-1500	1 paper copy of entire application
Howard A. Zucker, M.D., J.D. Commissioner NYS Department of Health Corning Tower Empire State Plaza Albany, NY 12237	1 paper copy of entire application  1 electronic copy of entire application (CD)
Richard Thomas Assistant Counsel NYS Department of Health Corning Tower, Empire State Plaza Albany, NY 12237	1 paper copy of entire application
Richard L. Kaufmann, Board Chairman New York State Energy Research and Development Authority 17 Columbia Circle Albany, NY 12203-6399	2 paper copies of entire application

Case 16-F-0062 - Application of Eight Point Wind, LLC

16 NYCRR § 1000.6(a) Service List

August 2018

Second Supplement to the Article 10 Application

NAME & ADDRESS	NUMBER OF COPIES
<p>Howard Zemsky, Commissioner NYS Department of Economic Development Attn: Vincent Ravaschiere Senior Vice President, Energy and Incentives 633 Third Avenue New York, NY 10017</p> <p>Howard Zemsky, Commissioner NYS Department of Economic Development Attn: Joe Roman Southern Tier Regional Office State Office Building, 44 Hawley Street Suite 1508 Binghamton, NY 13901</p>	<p>1 paper copy of entire application</p> <p>1 paper copy of entire application</p>
<p>Brennan Thurber, Supervisor Town of Greenwood 2696 Main Street Greenwood, NY 14839</p>	<p>1 paper copy of entire application</p>
<p>Randy Heckman, Supervisor Town of West Union 1328 State Route 248 Rexville, NY 14877</p>	<p>1 paper copy of entire application</p>
<p>David Newberry, Supervisor Troupsburg Town Hall 873 Main Street Troupsburg, NY 14885</p>	<p>1 paper copy of entire application</p>
<p>Jack Wheeler, County Manager Steuben County 3 East Pulteney Square Bath, NY 14810</p>	<p>1 paper copy of entire application</p>
<p>James Johnson Executive Director Steuben County Industrial Development Agency 7234 Route 54 North, PO Box 393 Bath, NY 14810</p>	<p>1 paper copy of entire application</p>

**Case 16-F-0062 - Application of Eight Point Wind, LLC**

**16 NYCRR § 1000.6(a) Service List**

**August 2018**

**Second Supplement to the Article 10 Application**

<b>NAME &amp; ADDRESS</b>	<b>NUMBER OF COPIES</b>
Richard A. Ball, Commissioner NYS Department of Agriculture and Markets 10B Airline Drive Albany, NY 12235	1 paper copy of entire application
Michael Saviola, MPS Associate Environmental Analyst NYS Department of Agriculture & Markets 1530 Jefferson Road Rochester, NY 14623	1 paper copy of entire application
Tara Wells Senior Attorney NYS Department of Agriculture & Markets 10B Airline Drive Albany, NY 12235	1 paper copy of entire application
Rossana Rosado, Secretary of State NYS Department of State Attn: Erin Hogan Director, Utility Intervention Unit One Commerce Plaza 99 Washington Avenue Albany, NY 12231-0001	1 electronic copy of entire application (CD)
Barbara Underwood NYS Attorney General Office of Attorney General Attn: Lisa M. Burianek, Esq. State Capital Building Albany, NY 12224	2 electronic copies of entire application
Matthew J. Driscoll, Commissioner NYS Department of Transportation Attn: Scott B. Prividera 50 Wolf Road, 6th Floor Albany, NY 12232	1 electronic copy of entire application (flash drive)

Case 16-F-0062 - Application of Eight Point Wind, LLC

16 NYCRR § 1000.6(a) Service List

August 2018

Second Supplement to the Article 10 Application

NAME & ADDRESS	NUMBER OF COPIES
Rose H. Harvey, Commissioner NYS Office of Parks, Recreation & Historic Preservation Attn: Diane Carter Planning Bureau 625 Broadway Albany, New York 12207	1 electronic copy of entire application (CD)
Canisteo Town Clerk Canisteo Town Hall 6 South Main Street Canisteo NY 14823	1 paper copy of entire application
Greenwood Town Clerk Greenwood Town Hall 2696 Main Street Greenwood, NY 14839	1 paper copy of entire application
Aaron Mullen Snavelly, Plaskov & Mullen, PLLC Town of Greenwood, Town of West Union PO Box 551 Bath, NY 14810	1 paper copy of entire application
Hartsville Town Clerk Hartsville Town Hall 5150 Purdy Creek Road Hornell, NY 14843	1 paper copy of entire application
Ms. Sheryl Isaman Town Clerk Hornellsville Town Hall 4 Park Avenue Arkport, NY 14807	1 paper copy of entire application
Jasper Town Clerk Jasper Town Hall 3807 Preacher Road Jasper, NY 14855	1 paper copy of entire application

**Case 16-F-0062 - Application of Eight Point Wind, LLC**

**16 NYCRR § 1000.6(a) Service List**

**August 2018**

**Second Supplement to the Article 10 Application**

<b>NAME &amp; ADDRESS</b>	<b>NUMBER OF COPIES</b>
Troupsburg Town Clerk Troupsburg Town Hall 873 Main Street Troupsburg, NY 14885	1 paper copy of entire application
West Union Town Clerk West Union Town Hall 3128 NYS Route 248 Rexville, NY 14877	1 paper copy of entire application
Jasper Free Library 3807 Library Street Jasper, NY 14855	1 paper copy of entire application
Wimodaughsian Free Library 19 West Main Street Canisteo, NY 14823	1 paper copy of entire application
Ms. Alice Taychert Library Director City of Hornell Public Library 64 Genesee Street Hornell, NY 14843	1 paper copy of entire application
Herrick Memorial Library Alfred University 1 Saxon Drive Alfred, NY 14802	1 paper copy of entire application
Eight Point Wind Local Office 2686 Main Street/Rte 248 Greenwood, NY 14839	1 paper copy of entire application
Harrison Watkins NYS Laborers' Organizing Upstate New York Laborers' District Council 668 Wemple Road Glenmont, New York 12077	1 paper copy of entire application



**Case 16-F-0062 - Application of Eight Point Wind, LLC**

**16 NYCRR § 1000.6(a) Service List**

**August 2018**

**Second Supplement to the Article 10 Application**

NAME & ADDRESS	NUMBER OF COPIES
Wisniewski, Benjamin Citizens for Maintaining Our Rural Environment 300 State Street, Suite 502 Rochester, NY 14614	1 paper copy of entire application
Kathy Spencer and Mark Tayrien LaBella Associates, DPC 300 State Street, Suite 201 Rochester, NY 14614	1 paper copy of entire application
NextEra Energy Resources Attn: Kris Scornavacca 700 Universe Blvd., E5E/JB Juno Beach, FL 33408	4 paper copies of entire application 4 electronic copies of entire application (CD)
Sam Laniado Read and Laniado, LLP 25 Eagle Street Albany, NY 12207-1901	1 paper copy of entire application  1 electronic copy of entire application (CD)

NEW YORK STATE BOARD ON ELECTRIC  
GENERATION SITING AND THE ENVIRONMENT

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Second Supplement to the Application of Eight Point Wind, LLC  
for a Certificate of Environmental Compatibility Case and Public  
Need Pursuant to Article 10 to Construct a Wind Energy Project

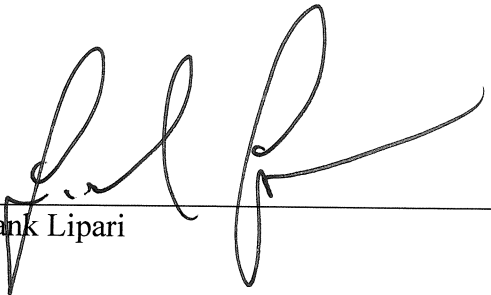
No. 16-F-0062

**AFFIDAVIT OF SERVICE**

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STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ONONDAGA        )

Frank Lipari, being duly sworn, deposes and says that on the 10th day of August 2018, he served a copy of Eight Point Wind, LLC's Second Supplement to the Article 10 Application for a Certificate of Environmental Compatibility and Public Need for the construction of a major wind electric generating facility in the above-captioned proceeding, with attachments thereto, by mailing a true hard copy and/or electronic copy, or copies thereof, via UPS Ground, as indicated upon on the recipients in the attached list.

  
\_\_\_\_\_  
Frank Lipari

Sworn to me before  
this 10 day of August 2018

  
\_\_\_\_\_  
Notary Public

MATT P. VISCONTI  
NOTARY PUBLIC STATE OF NEW YORK  
ONONDAGA  
LIC. #01V16346659  
COMM. EXP. 08/15/2020

# **Second Supplement to the Application for a Certificate of Environmental Compatibility and Public Need**

## **Eight Point Wind Energy Center**

Towns of Greenwood and West Union, Steuben County, New York

**Case No.: 16-F-0062**

**Applicant:**

**Eight Point Wind, LLC  
700 Universe Boulevard, FEW/JB  
Juno Beach, FL 33408  
Contact: Kris Scornavacca  
Kris.Scornavacca@nexteraenergy.com  
Office: (561) 694-4738**



**Prepared by:**

**TRC Companies, Inc.  
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**August 2018**

## Contents

1001.11 - Exhibit 11: Preliminary Design Drawings .....	1
1001.19 - Exhibit 19: Noise and Vibration .....	1
1001.21 - Exhibit 21: Geology, Seismology, and Soils.....	2
1001.22 - Exhibit 22: Terrestrial Ecology and Wetlands .....	4

## Attachments

Attachment A. Revised Grading Plans for Temporary Construction Routes

Attachment B. Revised Table F-1A and Table F-1B

Attachment C. Revised Figure 21-2. Soil Types

Attachment D. Figure 21-4. Vulnerable Soils

Attachment E. Turbine Foundation Vertical Profiles

Attachment F. Revised Figure 22-2. Delineated and Approximated Water Resources

Case 16-F-0062-Eight Point Wind Energy Center, LLC  
Second Supplement to the Application

In response to the June 18, 2018 letter received from the from John B. Rhodes, Chair, New York State Board on Electric Generation Siting and the Environment (Chair) regarding the Application submitted by Eight Point Wind, LLC (Applicant) pursuant to N.Y. Public Service Law (PSL) 164 for a Certificate of Environmental Compatibility and Public Need for Eight Point Wind Energy Center Project (the Project), supplemental information is provided below and attached. The organization of this document (hereafter referred to as the “Second Supplement to the Application” is consistent with the Chair’s June 18, 2018 letter and presents each comment followed by the Applicant’s response to the comment.

**1001.11 - Exhibit 11: Preliminary Design Drawings**

1. Stipulation 11(a)(v) states the Applicant will show temporary grading for the construction purposes (40’ wide road) along with the final grading (16’ wide road) on the preliminary design drawings. Preliminary Design Drawings only depict final grading. Provide revised preliminary design drawings that depict temporary grading.

The Preliminary facility drawings have been modified to indicate any temporary grading required for construction purposes along turbine access roads. In addition, a sample temporary grading plan has been developed for one 42 feet wide potential temporary construction route between Turbine 26 and Turbine 27. Additional temporary construction routes are still under development and review; however, provided under Attachment H is a map of the Project Site depicting the Applicant’s preliminary temporary construction routes that will require further analysis and grading design. The balance of the temporary grading associated with the temporary construction routes will be performed as the Project design is finalized and the final details will be provided with the Compliance Filing.

The Applicant, in its response, admits only one of the numerous temporary “Crane Paths” is shown with a grading design on the revised preliminary design drawings. No other “Crane Paths” that are contemplated in Attachment H are depicted on the drawings. Provide this information.

**Response:** Grading plans for the temporary construction routes and Crane Paths have been prepared as requested. See Sheets TCR-0 through TCR-14 in Attachment A.

**1001.19 - Exhibit 19: Noise and Vibration**

1. Stipulation 19(d)(6): Corrected and Uncorrected Sound Results - Stipulation 19(d)(6) states that “ISO-9613 and CONCAWE modeling results will be discussed independently without applying any corrections to match both results. If any corrections are applied, they will be explained and justified and both results with and without corrections will be reported.” Uncorrected sound results are not reported. Requested hourly information has been received but the overall uncorrected sound level results (dBA) for each receptor (Lnight) are not reported. Only the overall

corrected sound level results ( $L_{\text{night}}$ ) were reported. (See, Section 9.4.3, pages 9-9 and 9-10 of the Application. Provide the overall un-corrected sound level results (dBA) for each receptor as required by Stipulation 19 (d)(6) ( $L_{\text{night}}$ ).

**Response:** Table F-1A and Table F-1B have been updated to provide an additional column with the uncorrected  $L_{\text{night}}$  sound levels. These include modeling without the zeros (Table F-1A), and modeling with the zeros included (Table F-1B). The difference between the uncorrected and corrected  $L_{\text{night}}$  sound levels ranges from 0.2 to 1.5 dBA. The updated tables are included as Attachment B.

### 1001.21 - Exhibit 21: Geology, Seismology, and Soils

1. Stipulation 21(l) – The Application does not include the information required per Stipulation 21(l). This stipulation requires that the Application include a map delineating soils types at the Facility and interconnections site depicting soils vulnerability with respect to the following classifications:
  - a. “VE” (designated general area of vulnerability of erosion due to factors of slope and/or texture of exposed soil).
  - b. “VW” (designated general area of vulnerability to soil horizon wetness as described above).
  - c. “VB” (designated general area of vulnerability due the shallow depth to bedrock).
  - d. “V/OR” (Mucklands).

Figure 21-2 of the Application, as amended, shows soil types and drainage classes of soils within the Facility area, but fails to include the required vulnerability classifications. The Applicant must provide a separate figure that includes the information required per the stipulation. Soils maps should include the locations of the proposed turbines, collection lines, collection substation, O&M building, and access roads, and requests that the Applicant also provide a revised Figure 21-2 showing the locations of the proposed facilities.

**Response:** Comment noted. A revised Figure 21-2 showing the locations of the proposed facilities is included in Attachment C of this Second Supplement to the Application.

Based on the criteria set forth in the stipulation and outlined in the comment above, soil vulnerability is synonymous with the definition of “Vulnerable Agricultural Soils” outlined in Section 2.2.2 of *Pipeline Right-Of-Way Construction Projects, Agricultural Mitigation through the Stages of Project Planning, Construction/Restoration and Follow-Up Monitoring* authored by New York State Department of Agriculture and Markets (NYSDAM).

As such, on July 10, 2018, TRC (on behalf of the Applicant), consulted with Michael Saviola of the NYSDAM in order to ascertain and establish the measurable soil characteristics which would comprise the aforementioned vulnerabilities. The NYSDAM representative reviewed each vulnerability classification and indicated the following characteristics below would be acceptable factors of measurement:

- a. Vulnerability to Erosion (VE) – Soils with a high soil erosion hazard (see below for additional specificity).
- b. Vulnerability to Water (VW) – Soils with average depths to the water table less than or equal to 12 inches.
- c. Vulnerability to Bedrock (VB) – Soils with average depths to bedrock less than or equal to five feet.
- d. Vulnerability to Muckland Soil (VO) – The presence of muckland soils onsite was disregarded by the NYSDAM representative. It's depiction as a vulnerable soils type within the figure was therefore abandoned.

Through use of the United States Department of Agriculture (USDA) Natural Resources Conservation Services (NRCS) Web Soil Survey (WSS), soils within the Project Area were then reviewed and soil ratings were explored which most directly represented the factors outlined above. Specific ratings, measurements, and techniques used from the WSS to select soils within the Project Area which are outlined below:

- a. Vulnerability to Erosion (VE) – The Erosion Hazard (Off Road, Off Trail) rating was used to indicate the hazard of soil loss after disturbance activities that expose the soil surface. All soils within the Project Area were described as "slight," "moderate," "severe," or "very severe." From the description of this rating in the WSS, a rating of "slight" indicates that erosion is unlikely under ordinary climatic conditions; "moderate" indicates that some erosion is likely and that erosion-control measures may be needed; "severe" indicates that erosion is very likely and that erosion-control measures, including revegetation of bare areas, are advised; and "very severe" indicates that significant erosion is expected, loss of soil productivity and off-site damage are likely, and erosion-control measures are costly and generally impractical.

Soils within the Project Area which were listed as "moderate" to "very severe" were selected for, and were depicted as those soils with a higher than average vulnerability to erosion within the revised Figure 21-2.

- b. Vulnerability to Water (VW) – Within the *Water Features* sub-category listed within soil properties and qualities ratings, *Depth to Water Table* is a rating which lists the expected depth to where the water table would typically be found within each soil type within the Project Area. Soils within the Project Area identified as having depths to the water table less than or equal to 12 inches from the soil surface were selected, and are depicted soils with a higher than average vulnerability to water on the revised Figure 21-2.

- c. Vulnerability to Bedrock (VB) – Within the *Soil Qualities and Features* sub-category listed within soil properties and qualities ratings, *Depth to a Selected Soil restrictive Layer* is a rating which lists the expected depth to where select restrictive layers would typically be found within soils within the Project Area.

A "restrictive layer" is a nearly continuous layer that has one or more physical, chemical, or thermal properties that significantly impede the movement of water and air through the soil, restricts roots, or otherwise provides an unfavorable root environment.

Soils within the Project Area which were listed as having depths to a restrictive layer less than or equal to five feet from the soil surface were selected. In order to select restrictive layers which were bedrock specific required a secondary *Soil Features* report generation from the WSS which indicated types of restrictive layers attributed to the soils within the Project Area. Through cross-referencing the kind of restrictive layer to the depths, soils with lithic bedrock restrictions less than or equal to five feet of the soil surface were depicted as those soils with a higher than average vulnerability to bedrock encounters within Figure 21-4.

These aforementioned measurements and methodologies were used to define various potential soil vulnerabilities during construction of the Project, and are depicted on Figure 21-4: Vulnerable Soils (Attachment D of this Second Supplement).

2. 16 NYCRR §1001.21(q): This section states that Exhibit 21 shall contain: maps, figures, and analyses...including vertical profiles showing soils, bedrock, water table, seasonal high groundwater, and typical foundation depths on the facility site.

Appendix 21-2 of the Application provided the Preliminary Geotechnical Investigation Report, to which boring logs were attached. However, as noted in the Deficiency Letter, 16 NYCRR 1001.21(q) requires that the Application include vertical profiles showing soils, bedrock, water table, seasonal high groundwater, and typical foundation depths on the facility site. To correct the deficiency, each boring log must show the approximate depths of the proposed PHTP type foundations and seasonal high groundwater. If information on seasonal high groundwater is not available from public sources, the Applicant should note this in its response. Alternatively, the Applicant may provide a single "Typical Vertical Profile" for turbine foundations within the project area, showing the required information in a single subsurface cross-section.

**Response:** The Project may utilize up to two different turbine foundation types, and therefore the Applicant has prepared "Typical Vertical Profiles" for each of the turbine foundation types. These vertical profiles show soils, bedrock, water table, and typical foundation depths for the Project. The turbine foundation vertical profiles are included in Attachment E. In accordance with the Chair's comment, information on seasonal high groundwater is not available from public sources, and is, therefore, not represented in the profiles.

### 1001.22 - Exhibit 22: Terrestrial Ecology and Wetlands

1. 16 NYCRR §100 I .22(i): The Application is deficient because it does not comply with the on-site identification requirement for, "all federal, state and locally regulated wetlands present on the facility site and within 500 feet of areas to be disturbed by construction, including the interconnections; and predicted presence and extent of wetlands on the remainder of site properties and adjacent properties within 500 feet of areas to be disturbed by construction."



The Applicant's reliance on aerial photo interpretation, existing databases/previous delineations and estimations to extend field delineated boundaries out to 500 feet for mapping purposes does not satisfy the requirements of the regulation.

**Response:** The initial wetland and stream delineation effort was conducted in accordance with the stipulations agreed upon between the Applicant and the signatory parties.

In accordance with the subsequent DPS Staff memorandum released on May 31, 2018 entitled "Advice to Applicants on the Wetlands Delineation Requirements of the Article 10 Regulations" (Advice to Applicants), TRC (on behalf of the Applicant) completed additional on-site delineations of all wetlands and streams located on land that the Applicant has under control, and within 500 feet of the Limits of Disturbance (LOD). Per the Advice to Applicants, TRC also approximated or predicted the boundary/location of 1) all wetlands and streams beyond 500 feet of the LOD on land under the Applicant's control, and 2) all wetlands and streams within 500 feet of the LOD located on adjacent properties, beyond the Applicant's control.

Please refer to revised Figure 22-2: Delineated and Approximated Water Resources (Attachment F of this Second Supplement), presenting the map which depicts the results of this additional delineation effort.