NEW YORK STATE OF OPPORTUNITY. | Agriculture and Markets

ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

July 6, 2018

Via E-Mail

Hon. Kathleen H. Burgess, Secretary
New York State Board on Electric Generation Siting and the Environment
Three Empire Plaza
Albany, NY 12223-1350

Gabriel Wapner
621 West Randolph Street
Chicago, Illinois 60661
(contact@greenecountysolar.info)

Re: Case 17-F-0619 - Application of Hecate Energy Greene 1 LLC, Hecate Energy Greene 2 LLC, and Hecate Energy Greene 3 LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 For Construction of a Solar Electric Generating Facility Located in the Town of Coxsackie, Green County.

Dear Secretary Burgess and Ms. Wapner:

The New York State Department of Agriculture and Markets (DAM) has reviewed the Preliminary Scoping Statement (PSS) submitted by Hecate Energy Greene 1 LLC, Hecate Energy Greene 2 LLC and Hecate Energy Greene 3 LLC on or about May 29, 2018. DAM submits the attached comments in accordance with 16 NYCRR §1000.5(g).

If you should have any questions or concerns, do not hesitate to contact the undersigned.

Sincerely,

Tara B. Wells
Senior Attorney

Cc: Parties (via e-mail)

New York State Department of Agriculture & Markets (NYSDAM)
Staff Comments on the April 2018 Preliminary Scoping Statement (PSS) for the Hecate Energy Greene Solar Project

Staff's comments are intended to assist the Applicant in the development of a more robust Application clearly identifying how impacts to agricultural resources will be reduced or eliminated.

The proposed Project (Facility Area) encompasses approximately 933 acres of mostly agricultural land in the Town and Village of Coxsackie in Greene County. It is stated on page 10 of the PSS that the area around the Facility is predominately in agricultural production.

Section 3.6 Agricultural Resources

This section identifies portions of the facility that are in active agricultural production. Based on a review of the PSS Project Map and historic aerial photography, the proposed Facility Area is in active agricultural production. The Applicant represents that only portions of the proposed Facility Area is in active agricultural production. However, this this misleading as most, if not all, of the Facility Area is in actively farmed lands. In addition, most of the Facility Area is located in a County adopted, State certified Agricultural District. Tax parcel data indicates the properties are receiving an agricultural assessment. The Department uses this as an indicator of active agricultural use.

Section 4.4.1 Overview

The PSS states that farmland within the Facility Area consists 10% Prime Farmland, 15% Prime Farmland if drained, 70% farmland of Statewide Importance, and 5% Not Prime Farmland. Additionally, the PSS states that the farmland within the Facility Area is a combination of row crops (corn and soybeans), hay and pasture fields, and that the construction and operation of the facility will result in the disturbance of agricultural land. The Applicant needs to specify what the disturbance will consist of, specify the duration of the disturbance, and outline the measures that will be taken to minimize or mitigate impacts.

The useful life of solar arrays is approximately 20 to 40 years. The Department considers the conversion of agricultural land to a nonagricultural use for up to 40 years a permanent conversion. The Department is primarily concerned with the percent of agricultural land in the project area that is being converted to nonagricultural use and the impact on the agricultural viability in the Facility Area. Therefore, the information in the PSS concerning the impact to the amount of agricultural land in the region is misleading. The Applicant should assess the cumulative impact of the Facility Area and other conversions in the area over the useful life of the project. The Applicant

should also discuss the impact of the project on agricultural viability in the area over the next 40 years.

Section 4.4.4 Proposed Avoidance, Minimization, and Mitigation Measures

Section 4.4.4 includes very minimal information on impact avoidance, minimization and mitigation measures for agricultural resources. The Application should include detailed information on impact avoidance, minimization and mitigation measures for agricultural resources.

Section 4.4.4 describes a form of impact mitigation which would include payments to allow for the investment in "more successful" farming operation outside the facility area." To the extent which the Applicant suggests that the farm operation will simply vacate the proposed Project Area and find better farmland to resume their farming operation, the Department is unclear as to what the Applicant constitutes as "more successful farming operation." Further, the Department is unaware of any identified locations of "more successful farming operations" in the region which could reasonably be occupied by the farm operation displaced or relocated by the development of the Facility Area prior to the start of construction. If these statements are based on specific studies, the Applicant should provide references and/or identify specific sites for the Department [and others] to evaluate.

Additionally, the impact avoidance measures identified in Section 4.3.4 are not acceptable to the Department. It should be noted that the PSS states in several locations that agricultural resources were targeted for the Facility Area. The Application should include information on impact avoidance measures for agricultural resources, if any have been considered. The construction of the Facility Area in its proposed location constitutes a permanent conversion of agricultural land to a non-agricultural use. The application should include the percentage of agricultural land in the Facility Area that will be converted to nonagricultural use as a result of the construction of the Facility. Additionally, the Department strongly urges the Applicant to explore alternative sites which are not very flat, productive, well drained farmland comprised of Prime Farmland soil.

Section 4.21 Geology, Seismology and Soils

Section 4.21 describes the Applicant's plan for Facility Area construction including access roads, temporary staging/storage areas, the use of fill, excavation techniques, underground collection and overhead transmission lines, etc. Most of what is described in this section is not consistent with the Department's *Guidelines*[1] which apply to the construction, restoration and follow-up monitoring for solar energy projects impacting

[1] *Guidelines for Agricultural Mitigation for Solar Energy Projects.* New York State Department of Agriculture and Markets. April 11, 2018.

agricultural land. The Applicant's plans need to be consistent with the Department's Guidelines.

Section 4.21 also references agency consultation with the Department which occurred on March 14, 2018 in which "impacts to farmland" were discussed. The Department expressed great concern with the amount of agricultural land being taken out of production by the Facility Area and the regional impact on agricultural viability. The Department is also largely concerned with the potential impact to agricultural subsurface drainage improvements in the area as a result of construction of the Facility. Both concerns should have been noted and should be addressed in the application.

Section 4.9 Reasonable and Available Alternatives

Notably absent are any indications that other suitable sites including forested non-residential or commercial properties were evaluated. As stated above, the Department strongly urges the Applicant to explore alternative sites which are not very flat, productive, well drained farmland comprised of Prime Farmland soil or Farmland of Statewide Importance.

Section 4.22.2.6 Agricultural Resources

The PSS indicates that the Application will include an analysis of the temporary and permanent impacts of the construction and operation of the Facility. The Applicant needs to specify what the "temporary" impacts consist of and the expected length of the "temporary" impacts. The useful life of solar arrays is approximately 20 to 40 years. The Department considers the conversion of agricultural land to a nonagricultural use for up to 40 years a permanent conversion.

Section 4.22.3 Proposed Avoidance, Minimization, and Mitigation Measures

Section 4.22.3.6 states that the Applicant will "evaluate areas that can be preserved as open field or hay fields to provide habitat." The Department is not clear whether the Applicant is implying that they intend on taking active rotation cropland out of production and converting it to permanent grass hay or meadow. Please clarify this statement. The conversion of active rotation cropland to open field for "habitat" purposes is not an acceptable mitigation practice. Mitigation measures should include avoidance measures which identify potential sites for the Facility Area on less productive or non-agricultural areas.

In conclusion, the Department is concerned about the long-term viability of agriculture in the Facility Area, as a result of the agricultural land being converted to a nonagricultural use. The Applicant should assess the cumulative impact of the Facility Area and other

conversions in the area over the useful life of the project. The Applicant then needs to determine whether any reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact on agriculture in order to sustain a viable farm enterprise or enterprises within the Facility Area.