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John W. Dax

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May 28, 2020

Via Document and Matter Management System

Hon. Michelle L. Phillips, Secretary
New York State Board on Electric Generation
Siting and the Environment
Empire State Plaza, Agency Building 3
Albany, New York 12223-1350

Re: Case 17-F-0282 – Application of Alle-Catt Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for a Proposed Wind Energy Project, Located in Allegany, Cattaraugus, and Wyoming Counties, New York, in the Towns of Arcade, Centerville, Farmersville, Freedom, and Rushford.

Dear Secretary Phillips:

We have received a copy of a filing made on behalf of Coalition of Concerned Citizens (CCC Filing) (DMM 392) styled as a response to the May 20, 2020 motion made by the Town of Farmersville for the Siting Board to apply Farmersville Local Law #4 of 2020 in this proceeding (DMM 388). Alle-Catt Wind Energy LLC (ACWE) responded in opposition to the Farmersville motion by letter dated May 21, 2020.

The CCC Filing is not a response authorized by the applicable regulation (16 NYCRR § 3.6[d][2]), which from the context of Section 3.6 limits responses to motions to responses in opposition. Instead, the CCC Filing is in the nature of a motion seeking the same relief with additional argument. Accordingly, ACWE requests that the Siting Board accept this reply pursuant to Section 3.6(d)(3).

CCC erroneously couches the issue of the extent of the Siting Board's obligation to consider local laws as one of respect for municipal home rule authority. CCC's home rule-related argument was fully rebutted in ACWE's Brief Opposing Exceptions at pages 10-11. Here, again, CCC ignores the Siting Board's obligation to base its decision on an evidentiary record which by its nature is finite. CCC asserts that ACWE "has provided no... explanation" for why Farmersville Local Law No. 4 of 2020, which became effective on April 16, 2020, is unreasonably restrictive (CCC Filing at 4), ignoring that the evidentiary record closed on December 5, 2019. By ignoring the evidentiary context within which Siting Board decisions are made, CCC argues implicitly for an open-ended authority in municipal legislative bodies to adopt laws that become applicable to

Hon. Michelle L. Phillips, Secretary
New York State Board on Electric Generation
May 28, 2020
Page 2 of 2

projects when and as adopted. CCC provides nothing in support of this extraordinary, albeit implicit, claim.

CCC's arguments should be rejected.

Very truly yours,
THE DAX LAW FIRM, P.C.

/s/ John W. Dax

John W. Dax

JWD:imd

cc (via email): Party List
Hon. Dakin Lecakes
Hon. Gregg C. Sayre
Hon. Michael Caruso

May 28, 2020 | 4:05 pm

Information on Novel Coronavirus

Coronavirus is still spreading in New York. New Yorkers are required to wear a mask and maintain 6 feet distance in public.

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- Matter Master: 17-01045/17-F-0282

Matter Number:	17-01045	Case Number:	17-F-0282
Industry Affected:	Facility Gen.	Company/Organization:	Alle-Catt Wind Energy LLC
Matter Type:	Petition	Matter Subtype:	Certificate of Environmental Compatibility and Public Need
Title of Matter/Case:	Application of Alle-Catt Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant Expand	Related Matter/Case No:	
		Assigned Judge:	Lecakes, Dakin; Sayre, Gregg

Filed Documents (1153)

Public Comments (504)

Party List (47)

Calendar (4)

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Sr.No. ▲	Name of Person/Title/Company ▲	Representing Company ▲	Mailing Address ▲	Email/Phone/Fax ▲	Consent to Party Electronic Service ▲
47	Abbott, Judith NYS Department of Health	New York State Department of Health	Empire State Plaza, Corning Tower, Room 1772 Albany, NY 12237	judith.abbott@health.ny.gov	Yes
46	Abraham, Gary Attorney at Law		4939 Conlan Road Great Valley, NY 14741	gabraham44@eznet.net Ph: 716-790-6141	Yes
45	Alianello, Mark Principal Engineer MDA Consulting Engineers, PLLC	Individual	PO Box 604 Ellicottville, NY 14731	malianello@mdaengineers.com Ph: 716-699-4650	Yes
44	Amsler, David	Withdrawn from Party List 9/16/19		energyhawk@gmail.com Ph: 716-557-2049	Yes
43	Ash, Karen Chairman Concerned Citizens of Allegany County Inc.	Concerned Citizens of Allegany County Inc.	PO Box 113 Angelica, NY 14709	karen@angelicasweetshop.com Ph: 585-409-5918	Yes
42	Behnke, Heather Assistant Counsel New York State Department of Public Service	Public Service Commission	Three Empire State Plaza Albany, NY 12223-1350	Heather.Behnke@dps.ny.gov Ph: 518-474-5474 Fax: 518-486-5710	Yes
41	Binder, Jonathan Associate Attorney New York State Department of Environmental Conservation	New York State Department of Environmental Conservation	625 Broadway - 14th Floor Albany, NY 12233	Jonathan.Binder@dec.ny.gov Ph: (518) 402-9188 Fax: (518) 402-9018	Yes
40	Britton, David Associate GHD Consulting Services, Inc.	Town of Centerville, Town of Farmersville, Town of Freedom, Town of Rushford	285 Delaware Avenue, Suite 500 Buffalo, NY 14202	david.britton@ghd.com Ph: 716-856-2142	Yes
39	Buck, Richard Attorney Richardson & Pullen, P.C.	Town of Centerville	21 Minard Street, P.O. Box 182 Fillmore, NY 14735	rbuck@rppclaw.com Ph: 585-567-2222 Fax: 585-567-2221	Yes
38	Caulfield, Mary	Individual	NY	golfbuddy19@hotmail.com Ph: 716-863-9049	Yes
37	Cerbin, Andrea Assistant Counsel NYS Department of Public Service	New York State Department of Public Service	Three Empire State Plaza Albany, NY 12223-1350	Andrea.Cerbin@dps.ny.gov Ph: (518) 408-1441 Fax: 518-486-5710	Yes

Sr.No. ⬆	Name of Person/Title/Company ▲	Representing Company ⬆	Mailing Address ⬆	Email/Phone/Fax ⬆	Consent to Party Electronic Service ⬆
36	Crouse, Sita Senior Attorney Department of Environmental Conservation	New York State Department of Environmental Conservation	625 Broadway, 14th Fl or ALBANY, NY 12203-1500	sita.crouse@dec.ny.gov Ph: 518-402-9188 Fax: 518-402-9016	Yes
35	Dax, John Counsel The Dax Law Firm, P.C.	Alle-Catt Wind Energy LLC, The Dax Law Firm, P.C.	54 State Street, Suite 805 Albany, NY 12207	JDax@DaxLawFirm.com Ph: (518) 432-1002 Fax: 518-432-1028	Yes
34	Dewey, Lorraine Legal Assistant THE DAX LAW FIRM, PC	Alle-Catt Wind Energy LLC	54 STATE STREET, SUITE 805 ALBANY, NY 12207	ldewey@daxlawfirm.com Ph: (518) 432-1002 Fax: (518) 432-1028	Yes
33	Dufresne, Zack Director of Member Services, Clean Energy Advocate Alliance for Clean Energy New York	Alliance for Clean Energy New York, Inc	119 Washington Ave, Suite 1G Albany, NY 12210	Article10@aceny.org Ph: (518) 432-1405 Fax: (518) 432-1407	Yes
32	Edick, Rudyard Environmental Analyst II New York State Department of Environmental Conservation	New York State Department of Environmental Conservation	625 Broadway, 4th Floor Albany, NY 12233-1750	Rudyard.Edick@dec.ny.gov Ph: (518) 402-9150 Fax: (518) 402-9018	Yes
31	Gaffin, Dennis 10499 MINK HOLLOW ROAD	Centerville's Concerned Citizens	FARMERSVILLE STATION, NY 14060	gaffindl@buffalostate.edu Ph: 716-878-6724	Yes
30	Galluzzo, Dennis Secretary / Treasurer Concerned Citizens of Rushford	Concerned Citizens of Rushford	Schroder Joseph & Associates, LLP, 1676 Rogers Road Franklinville, NY 14737	concernedcitizensofrushford@gmail.com Ph: 716-863-4000	Yes
29	Heberling, Mark President Farmersville United	Farmersville United	c/o SJA Law Firm LLP 392 Pearl Street Suite 301 Buffalo, NY 14202	farmersvilleunited@gmail.com Ph: 716-796-1206 Fax: 716-881-4909	Yes
28	KILBURN, LARRY SUPERINTENDENT VILLAGE OF ARCADE DEPARTMENT OF PUBLIC WORKS	Village of Arcade	17 CHURCH STREET - P O BOX 188 ARCADE, NY 14009	larrykilburn@villageofarcade.org Ph: 585-492-1111	Yes
27	Lester, Randy Town Supervisor	Town of Freedom	P.O. Box 89 Sandusky, NY 14133	randylester2013@yahoo.com Ph: 716-492-0961	Yes
26	McAuley, James Attorney Town of Freedom	Town of Freedom	4 South Main Street Franklinville, NY 14737	mcauleyscavalry@verizon.net Ph: 716-676-5524	Yes
25	McLaughlin, William Attorney The Dax Law Firm, P.C.	Alle-Catt Wind Energy LLC	54 State Street, Suite 805 Albany, NY 12207	wclaughlin@daxlawfirm.com Ph: 518-432-1002	Yes
24	Milks, Stephanie President Freedom United	Freedom United	1716 Green Road Freedom, NY 14065	mrsmilks16@yahoo.com Ph: 716-492-1742	Yes
23	Miller, Eric Director of Business Development Invenergy LLC	Alle-Catt Wind Energy LLC	120 N. Lee Street Falls Church, VA 22046	emiller@invenergyllc.com Ph: 301-610-6413	Yes
22	Muessigbrodt, Carol Senior Project Manager TRC Solutions	Niagara Mohawk Power Corporation	215 Greenfield Parkway, Suite 102 Liverpool, NY 13088	CMuessigbrodt@trcsolutions.com Ph: 315-200-0231	Yes
21	Ng, Jennifer Senior Analyst Renewable Development Invenergy Canada	Alle-Catt Wind Energy LLC	67 Mowart Avenue, Suite 540 Toronto, ON M6K 3E3	JNg@invenergyllc.com Ph: 647-953-5191	Yes
20	O'Keefe, Nicholas Concerned Citizens of Cattaraugus County	Concerned Citizens of Cattaraugus County	130 S. 19th St. Olean, NY 14760	nokeefe21@gmail.com Ph: 586-335-1944	Yes
19	O'Toole, Bridget Partner The Zoghlin Group PLLC	Town of Farmersville, Town of Freedom	300 State Street, Suite 502 Rochester, NY 14614	bridget@zoglilaw.com Ph: 585-434-0790 Fax: 585-563-7432	Yes
18	Partyka, Cassandra Department of Public Service	New York State Department of Public Service	3 Empire State Plaza Albany, NY 12223	cassandra.partyka@dps.ny.gov Ph: 518-474-0517	Yes
17	Paulsen, Kara Assistant Attorney 3 NYS Department of Environmental Conservation	New York State Department of Environmental Conservation	625 Broadway - 14th Floor Albany, NY 12233	kara.paulsen@dec.ny.gov Ph: 518-402-9191	Yes
16	Pekarek, Edward Pekarek Law Group, P.C.	Freedom and Farmersville Taxpayers United	218 East Dyke Street Wellsville, NY 14895-1616	mail@pekareklaw.com Ph: 585-596-1107	Yes

Sr.No. ⚡	Name of Person/Title/Company ▲	Representing Company ⚡	Mailing Address ⚡	Email/Phone/Fax ⚡	Consent to Party Electronic Service ⚡
15	Phillips, Michael Senior Attorney NYSDOH	New York State Department of Health	24th Floor Corning Tower, ESP Albany , NY 12223	michael.phillips@health.ny.gov Ph: (518) 474-1902	Yes
14	Pullen, Seth Attorney for the Town Richardson, Pullen & Buck, PC	Town of Centerville, Town of Rushford	Convention Tower, 43 Court Street, Suite 930 Buffalo, NY 14202	spullen@rppclaw.com Ph: 716-768-3718	Yes
13	Sacks, William Senior Counsel Dep't of Health - Division of Legal Affairs	New York State Department of Health	2468 Corning Tower Albany, NY 12237	William.Sacks@health.ny.gov Ph: (518) 473-4632	Yes
12	Saviola, Michael Environmental Analyst New York State Department of Agriculture & Markets	New York State Department of Agriculture and Markets	10B Airline Drive Albany, NY 12235	michael.saviola@agriculture.ny.gov	Yes
11	Schroder, Ginger Attorney Schroder Joseph & Associates, LLP	Coalition of Cattaraugus County Farms, Farmersville United, Freedom United, Old Order Amish of Farmersville	392 Pearl Street Suite 301 Buffalo, NY 14202	gschroder@sjalegal.com Ph: 716-863-4000 Fax: 716-881-4909	Yes
10	Senlet, Ekin Partner Barclay Damon, LLP	Alle-Catt Wind Energy LLC	80 State Street Albany, NY 12207	esenlet@barclaydamon.com Ph: (518) 429-4231 Fax: (518) 533-2937	Yes
9	Solimeno, David New York State Department of Public Service	New York State Department of Public Service	3 Empire State Plaza Albany, NY 12223	david.solimeno@dps.ny.gov Ph: 518-486-6764	Yes
8	Souter-Kline, Valessa Project Manager Invenergy LLC	Invenergy Wind LLC	123 S. Cayuga St. Suite 201 Ithaca , NY 14580	vsouter-kline@invenergyllc.com	Yes
7	Strassel, Robert Municipal Attorney Ward & Kutzuba	Town of Farmersville, Village of Arcade	P.O. Box 321 Arcade, NY 14009	rd@wardkutzuba.com Ph: 585-492-1460 Fax: 585-492-1178	Yes
6	Veazie, Jeff Director of Project Development Invenergy LLC	Alle-Catt Wind Energy LLC	One South Wacker Drive, Suite 1800 Chicago, IL 60606	jveazie@invenergyllc.com Ph: 312-582-1483	Yes
5	Watkins, Harrison NYS Laborers' Organizing		668 Wemple Road Glenmont, New YORK 12077	hwatkins@nyslof.org	Yes
3	Wells, Marguerite Senior Manager, Renewable Development Invenergy LLC, Verona Solar	Alle-Catt Wind Energy LLC	123 South Cayuga Street, Suite 201 Ithaca, NY 14850	mwells@invenergyllc.com Ph: 607-330-0399	Yes
4	Wells, Tara Senior Attorney NYS Dept. of Agriculture & Markets	New York State Department of Agriculture and Markets	10B Airline Drive Albany, NY 12235	Tara.Wells@agriculture.ny.gov Ph: 518-487-6084	Yes
2	Wisniewski, Benjamin Zoghlin Group, PLLC	Town of Farmersville, Town of Freedom	300 State Street, Suite 502 Rochester, NY 14614	benjamin@zoglaw.com Ph: 585-434-0790 Fax: 585-563-7432	Yes
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