



February 23, 2016

Town of Arkwright
9543 Center Road
Fredonia, NY 14063

Town of Cherry Creek
PO Box 98
6845 Main Street
Cherry Creek, NY 14723

Town of Charlotte
2637 Thornton Road
Sinclairville, NY 14782

Town of Stockton
7344 Route 380
Stockton, NY 14784

**RE: Cassadaga Wind Project
Host Town Local Laws**

Dear Atty. Spitzer:

As you know, Cassadaga Wind LLC (the Applicant), intends to submit an Application in March 2016 to construct a major electric generating facility under Article 10 of the Public Service Law (PSL) in order to meet the timeframes set forth by the New York Independent Systems Operator. The Cassadaga Wind Project ("Project") is a proposed 126 megawatt wind powered electric generating facility located within the Towns of Charlotte, Cherry Creek, Arkwright, and Stockton. The proposed Project consists of all activities necessary for the construction and operation of a commercial-scale wind power project, including the installation and operation of up to 58 wind turbines, together with associated collection lines, access roads, up to two permanent meteorological towers, one operation and maintenance building, and two temporary construction staging/laydown areas. To deliver electricity to the New York State power grid, the Applicant proposes to construct a collection substation, a 5.5-mile 115 kilovolt (kV) generator lead line, and a point of interconnection substation, which will interconnect with National Grid's Dunkirk-Moon 115 kV transmission line.

It should be noted that the Towns of Charlotte¹, Cherry Creek², Arkwright³, and Stockton⁴ each have their own Wind Energy Conversion Laws which would be applicable, but for the passage of Article 10 which supplants the procedural requirement of these local laws.

¹ Wind Energy Conversion Systems Law located at Article VI, §618 of the town of Charlotte Zoning Law

² Wind Energy Facilities Law located in Local Law 2 of 2011 of the Town of Cherry Creek Zoning Law

³ Wind Energy Facilities Law located at Article VI-A, §650 of the Town of Arkwright Zoning Law

⁴ Local Law for the year 2005 amending Local Law 1 of 1994 adding Article XVI, Wind Energy Conversion Systems of the Town of Stockton Zoning Law



Article 10 provides for the siting review of major electric generating facilities in New York State in a unified proceeding instead of requiring a developer to apply for numerous state and local permits. During preparation of the required Preliminary Scoping Statement, the Applicant, with the assistance and input of the local communities, compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature required for the construction or operation of the proposed Project and interconnection:

Town of Arkwright

- Permits Required for Wind Overlay District and Special Use Permit pursuant to Article VI A, Wind Energy Facilities §653(A)-(H) which includes the application requirements for Wind Energy Facilities Creation of Wind Overlay Zone §656 (B)-(C).
- Application for Wind Energy Conversion Systems §657(A)(1)-(20)- Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §658(A)-(J).
- Noise and Setback Easements §663(A)(1)-(3).
- Creation of Wind Overlay Zones and Issuances of Special Use Permits §664(A)-(D).
- Fees §671 (A)-(D).
- Enforcement; Penalties and remedies for violation §673 (A)-(C).
- Use of Town Rights of Way – Local law No. 1 of 2015 regulating and creating a permitting system of use and cuts and openings in and under Town rights of way.
- Permit Revocation §667(A)-(C).

Town of Charlotte

- Permits and Rezoning Required under Article VI, §618(B)(1)-(8) of the Town of Charlotte Zoning Law which includes the application requirements for Wind Energy Facilities.
- Wind Overlay District Rules §618(D)(2)-(3).
- Applications for Wind Energy Conversion System and Wind Overlay District §618(E)(1)(a)-(E)(1)(t) - Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §618(F)(1)-(10).
- Noise, Height and Setback Easements; Variances §618(K)(1)(a)-(c).
- Creation of Wind Overlay Districts and Issuance of Special Use Permits §618(L)(1)-(4).
- Permit Revocation §618(O)(1)-(3).

Town of Cherry Creek

- Permits and Rezoning Required Article VI, Local Law 2 of 2011 §5(A)-(H) which includes the application requirements for Wind Energy Facilities.
- Applications for Wind Energy Conversion Systems and Wind Overlay District §8(A)(1)-(20).
- Application Review Process §9(A)-(J).
- Noise and Setback Easements; Variances §14(A)(1)-(3).
- Creation of Wind Overlay District and Issuance of Special Permits §15(A)-(D).
- Fees §28(A)-(D).
- Enforcement; Penalties and remedies for violations §30(A)-(C).
- Permit Revocation §18(A)-(C).

Town of Stockton

- The Project components that will be located in the Town of Stockton will be limited to a portion of the generator lead line and the point of interconnect substation, both of which will be located within the Agricultural (A) or Agricultural Residential (AR) Zoning Districts. According to Section 407 Land Use Matrix of the Town of Stockton Zoning Regulations, uses related to utilities are allowed by right in the A and AR districts and uses related to wind energy are allowed in the A and AR districts upon the issuance of a special use permit.

Pursuant to PSL Section 172 and 16 NYCRR 1001.31, these procedural requirements are supplanted and the Applicant is instructed to not request the Board to not apply them. In other words, these requirements are supplanted as a matter of law, and no further showing is required of the Applicant in order for the Board to supplant them.

In addition, with the assistance and input of the local communities, the Applicant compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed facility and interconnection:

Town of Arkwright

- Creation of Wind Overlay Zones §656(A) of the Town of Arkwright Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District and the T-Transitional Use Zone.
- Standards for WECS §659(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, the maximum total height of any WECS shall be 420 feet (Subsequent to the filing of the PSS, the Town of Arkwright has enacted Local Law No. ___ of 2016 amending its Zoning Law to limit WECS to a total height of 500 ft.).
 - *Limits on Construction Activity Times* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval).
- Required Safety Measures §660(A)-(G).
- Traffic Routes §661(A)-(C).
- Setbacks for Wind Energy Conversion Systems §662(A)-(E) including:
 - *Noise Limits* – Pursuant to Article VI-A, §662(A-B) of the Town of Arkwright Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI-A, §662(E) of the Town of Arkwright Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,200 feet from the nearest existing off-Site residence,
 - 1.5 times the total height of the WECS from any non-WECS structure or above ground utilities,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,200 feet or 200% of the total tower height, whichever is greater, from boundary of existing trails, trail facilities, and recreation areas.

Town of Charlotte

- Wind Overlay District Rules – Pursuant to Article VI, §618(D)(1) of the Town of Charlotte Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District.
- Standards for WECS §618(G)(1)(a)-(s) including:
 - *Turbine Height* – Pursuant to Article VI, §618(G)(1)(m) of the Town of Charlotte Zoning Law, the maximum total height of any WECS shall be 500 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §618(H)(1)-(7).
- Traffic Routes §618(I)(1)-(3).
- Setbacks for Wind Energy Conversion Systems §618(J)(1)-(6) including:
 - *Noise Limits* – Pursuant to Article VI, §618(J)(1-2) of the Town of Charlotte Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI, §618(J)(5) of the Town of Charlotte Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Cherry Creek

- Wind Overlay District Rules – Pursuant to Article VII, Local Law 2 of 2011 §7(A) of the Town of Cherry Creek Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential District III.
- Standards for WECS §10(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(13) of the Town of Cherry Creek Zoning Law, the maximum total height of any WECS shall be 420 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §11(A)-(F).
- Traffic Routes §12(A)-(C).
- Setbacks for Wind Energy Conversion Systems §13(A)-(F) including:
 - *Noise Limits* – Pursuant to Article VII, Local Law 2 of 2011 §13(A-B) of the Town of Cherry Creek Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50

dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.

- **Setbacks** – Pursuant to Article VII, Local Law 2 of 2011 §13(1-5) of the Town of Cherry Creek Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Stockton

- Upon review of the Town of Stockton's Zoning Regulations and consultation with town officials there does not appear to be any substantive requirements associated with the point of interconnect substation and generator lead line.

Finally, the Applicant is providing a list of those substantive standards that it plans to request the New York State Siting Board rule are unduly burdensome in accordance with the PSL, Section 168, part e.

Town of Cherry Creek

- Turbine Height –§10(A)(13) the maximum total height of any WECS shall be 420 feet.
- Limits on Construction Activity Times – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §16(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Charlotte

- Limits on Construction Activity Times – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §618(M)(1)-(3)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Arkwright

- Limits on Construction Activity Times – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Required Safety Measures §660(A)-(G) – Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers.
- Abatement §665(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

The Applicant is committed to continuing its consultation with the host municipalities for this Project in particular to the local laws applicable to the Project. This letter summarizes our understanding of the local laws that would otherwise apply to the Project absent the Article 10 process. Please confirm we have appropriately identified all local laws of a procedural and substantive nature, or otherwise please identify any such laws that are not summarized above.

We appreciate your assistance.

Sincerely,



Seth Wilmore

cc: Daniel Spitzer, Esq.



February 23, 2016

Town of Charlotte
2637 Thornton Road
Sinclairville, NY 14782

Town of Stockton
7344 Route 380
Stockton, NY 14784

Town of Arkwright
9543 Center Road
Fredonia, NY 14063

Town of Cherry Creek
PO Box 98
6845 Main Street
Cherry Creek, NY 14723

**RE: Cassadaga Wind Project
Host Town Local Laws**

Dear Mr. Bochmann:

As you know, Cassadaga Wind LLC (the Applicant), intends to submit an Application in March 2016 to construct a major electric generating facility under Article 10 of the Public Service Law (PSL) in order to meet the timeframes set forth by the New York Independent Systems Operator. The Cassadaga Wind Project ("Project") is a proposed 126 megawatt wind powered electric generating facility located within the Towns of Charlotte, Cherry Creek, Arkwright, and Stockton. The proposed Project consists of all activities necessary for the construction and operation of a commercial-scale wind power project, including the installation and operation of up to 58 wind turbines, together with associated collection lines, access roads, up to two permanent meteorological towers, one operation and maintenance building, and two temporary construction staging/laydown areas. To deliver electricity to the New York State power grid, the Applicant proposes to construct a collection substation, a 5.5-mile 115 kilovolt (kV) generator lead line, and a point of interconnection substation, which will interconnect with National Grid's Dunkirk-Moon 115 kV transmission line.

It should be noted that the Towns of Charlotte¹, Cherry Creek², Arkwright³, and Stockton⁴ each have their own Wind Energy Conversion Laws which would be applicable, but for the passage of Article 10 which supplants the procedural requirement of these local laws.

¹ Wind Energy Conversion Systems Law located at Article VI, §618 of the town of Charlotte Zoning Law

² Wind Energy Facilities Law located in Local Law 2 of 2011 of the Town of Cherry Creek Zoning Law

³ Wind Energy Facilities Law located at Article VI-A, §650 of the Town of Arkwright Zoning Law

⁴ Local Law for the year 2005 amending Local Law 1 of 1994 adding Article XVI, Wind Energy Conversion Systems of the Town of Stockton Zoning Law



Article 10 provides for the siting review of major electric generating facilities in New York State in a unified proceeding instead of requiring a developer to apply for numerous state and local permits. During preparation of the required Preliminary Scoping Statement, the Applicant, with the assistance and input of the local communities, compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature required for the construction or operation of the proposed Project and interconnection:

Town of Arkwright

- Permits Required for Wind Overlay District and Special Use Permit pursuant to Article VI A, Wind Energy Facilities §653(A)-(H) which includes the application requirements for Wind Energy Facilities Creation of Wind Overlay Zone §656 (B)-(C).
- Application for Wind Energy Conversion Systems §657(A)(1)-(20)- Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §658(A)-(J).
- Noise and Setback Easements §663(A)(1)-(3).
- Creation of Wind Overlay Zones and Issuances of Special Use Permits §664(A)-(D).
- Fees §671 (A)-(D).
- Enforcement; Penalties and remedies for violation §673 (A)-(C).
- Use of Town Rights of Way – Local law No. 1 of 2015 regulating and creating a permitting system of use and cuts and openings in and under Town rights of way.
- Permit Revocation §667(A)-(C).

Town of Charlotte

- Permits and Rezoning Required under Article VI, §618(B)(1)-(8) of the Town of Charlotte Zoning Law which includes the application requirements for Wind Energy Facilities.
- Wind Overlay District Rules §618(D)(2)-(3).
- Applications for Wind Energy Conversion System and Wind Overlay District §618(E)(1)(a)-(E)(1)(t) - Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §618(F)(1)-(10).
- Noise, Height and Setback Easements; Variances §618(K)(1)(a)-(c).
- Creation of Wind Overlay Districts and Issuance of Special Use Permits §618(L)(1)-(4).
- Permit Revocation §618(O)(1)-(3).

Town of Cherry Creek

- Permits and Rezoning Required Article VI, Local Law 2 of 2011 §5(A)-(H) which includes the application requirements for Wind Energy Facilities.
- Applications for Wind Energy Conversion Systems and Wind Overlay District §8(A)(1)-(20).
- Application Review Process §9(A)-(J).
- Noise and Setback Easements; Variances §14(A)(1)-(3).
- Creation of Wind Overlay District and Issuance of Special Permits §15(A)-(D).
- Fees §28(A)-(D).
- Enforcement; Penalties and remedies for violations §30(A)-(C).
- Permit Revocation §18(A)-(C).

Town of Stockton

- The Project components that will be located in the Town of Stockton will be limited to a portion of the generator lead line and the point of interconnect substation, both of which will be located within the Agricultural (A) or Agricultural Residential (AR) Zoning Districts. According to Section 407 Land Use Matrix of the Town of Stockton Zoning Regulations, uses related to utilities are allowed by right in the A and AR districts and uses related to wind energy are allowed in the A and AR districts upon the issuance of a special use permit.

Pursuant to PSL Section 172 and 16 NYCRR 1001.31, these procedural requirements are supplanted and the Applicant is instructed to not request the Board to not apply them. In other words, these requirements are supplanted as a matter of law, and no further showing is required of the Applicant in order for the Board to supplant them.

In addition, with the assistance and input of the local communities, the Applicant compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed facility and interconnection:

Town of Arkwright

- Creation of Wind Overlay Zones §656(A) of the Town of Arkwright Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District and the T-Transitional Use Zone.
- Standards for WECS §659(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, the maximum total height of any WECS shall be 420 feet (Subsequent to the filing of the PSS, the Town of Arkwright has enacted Local Law No. __ of 2016 amending its Zoning Law to limit WECS to a total height of 500 ft.).
 - *Limits on Construction Activity Times* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval).
- Required Safety Measures §660(A)-(G).
- Traffic Routes §661(A)-(C).
- Setbacks for Wind Energy Conversion Systems §662(A)-(E) including:
 - *Noise Limits* – Pursuant to Article VI-A, §662(A-B) of the Town of Arkwright Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI-A, §662(E) of the Town of Arkwright Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,200 feet from the nearest existing off-Site residence,
 - 1.5 times the total height of the WECS from any non-WECS structure or above ground utilities,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,200 feet or 200% of the total tower height, whichever is greater, from boundary of existing trails, trail facilities, and recreation areas.

Town of Charlotte

- Wind Overlay District Rules – Pursuant to Article VI, §618(D)(1) of the Town of Charlotte Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District.
- Standards for WECS §618(G)(1)(a)-(s) including:
 - *Turbine Height* – Pursuant to Article VI, §618(G)(1)(m) of the Town of Charlotte Zoning Law, the maximum total height of any WECS shall be 500 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §618(H)(1)-(7).
- Traffic Routes §618(I)(1)-(3).
- Setbacks for Wind Energy Conversion Systems §618(J)(1)-(6) including:
 - *Noise Limits* – Pursuant to Article VI, §618(J)(1-2) of the Town of Charlotte Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI, §618(J)(5) of the Town of Charlotte Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Cherry Creek

- Wind Overlay District Rules – Pursuant to Article VII, Local Law 2 of 2011 §7(A) of the Town of Cherry Creek Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential District III.
- Standards for WECS §10(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(13) of the Town of Cherry Creek Zoning Law, the maximum total height of any WECS shall be 420 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §11(A)-(F).
- Traffic Routes §12(A)-(C).
- Setbacks for Wind Energy Conversion Systems §13(A)-(F) including:
 - *Noise Limits* – Pursuant to Article VII, Local Law 2 of 2011 §13(A-B) of the Town of Cherry Creek Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50

dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.

- o **Setbacks** – Pursuant to Article VII, Local Law 2 of 2011 §13(1-5) of the Town of Cherry Creek Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Stockton

- Upon review of the Town of Stockton's Zoning Regulations and consultation with town officials there does not appear to be any substantive requirements associated with the point of interconnect substation and generator lead line.

Finally, the Applicant is providing a list of those substantive standards that it plans to request the New York State Siting Board rule are unduly burdensome in accordance with the PSL, Section 168, part e.

Town of Cherry Creek

- Turbine Height –§10(A)(13) the maximum total height of any WECS shall be 420 feet.
- Limits on Construction Activity Times – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §16(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Charlotte

- Limits on Construction Activity Times – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §618(M)(1)-(3)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Arkwright

- Limits on Construction Activity Times – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Required Safety Measures §660(A)-(G) – Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers.
- Abatement §665(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

The Applicant is committed to continuing its consultation with the host municipalities for this Project in particular to the local laws applicable to the Project. This letter summarizes our understanding of the local laws that would otherwise apply to the Project absent the Article 10 process. Please confirm we have appropriately identified all local laws of a procedural and substantive nature, or otherwise please identify any such laws that are not summarized above.

We appreciate your assistance.

Sincerely,



Seth Wilmore

cc: Daniel Spitzer, Esq.



February 23, 2016

Town of Stockton
7344 Route 380
Stockton, NY 14784

Town of Arkwright
9543 Center Road
Fredonia, NY 14063

Town of Cherry Creek
PO Box 98
6845 Main Street
Cherry Creek, NY 14723

Town of Charlotte
2637 Thornton Road
Sinclairville, NY 14782

**RE: Cassadaga Wind Project
Host Town Local Laws**

Dear Mr. Wilson:

As you know, Cassadaga Wind LLC (the Applicant), intends to submit an Application in March 2016 to construct a major electric generating facility under Article 10 of the Public Service Law (PSL) in order to meet the timeframes set forth by the New York Independent Systems Operator. The Cassadaga Wind Project ("Project") is a proposed 126 megawatt wind powered electric generating facility located within the Towns of Charlotte, Cherry Creek, Arkwright, and Stockton. The proposed Project consists of all activities necessary for the construction and operation of a commercial-scale wind power project, including the installation and operation of up to 58 wind turbines, together with associated collection lines, access roads, up to two permanent meteorological towers, one operation and maintenance building, and two temporary construction staging/laydown areas. To deliver electricity to the New York State power grid, the Applicant proposes to construct a collection substation, a 5.5-mile 115 kilovolt (kV) generator lead line, and a point of interconnection substation, which will interconnect with National Grid's Dunkirk-Moon 115 kV transmission line.

It should be noted that the Towns of Charlotte¹, Cherry Creek², Arkwright³, and Stockton⁴ each have their own Wind Energy Conversion Laws which would be applicable, but for the passage of Article 10 which supplants the procedural requirement of these local laws.

¹ Wind Energy Conversion Systems Law located at Article VI, §618 of the town of Charlotte Zoning Law

² Wind Energy Facilities Law located in Local Law 2 of 2011 of the Town of Cherry Creek Zoning Law

³ Wind Energy Facilities Law located at Article VI-A, §650 of the Town of Arkwright Zoning Law

⁴ Local Law for the year 2005 amending Local Law 1 of 1994 adding Article XVI, Wind Energy Conversion Systems of the Town of Stockton Zoning Law



Article 10 provides for the siting review of major electric generating facilities in New York State in a unified proceeding instead of requiring a developer to apply for numerous state and local permits. During preparation of the required Preliminary Scoping Statement, the Applicant, with the assistance and input of the local communities, compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature required for the construction or operation of the proposed Project and interconnection:

Town of Arkwright

- Permits Required for Wind Overlay District and Special Use Permit pursuant to Article VI A, Wind Energy Facilities §653(A)-(H) which includes the application requirements for Wind Energy Facilities Creation of Wind Overlay Zone §656 (B)-(C).
- Application for Wind Energy Conversion Systems §657(A)(1)-(20)- Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §658(A)-(J).
- Noise and Setback Easements §663(A)(1)-(3).
- Creation of Wind Overlay Zones and Issuances of Special Use Permits §664(A)-(D).
- Fees §671 (A)-(D).
- Enforcement; Penalties and remedies for violation §673 (A)-(C).
- Use of Town Rights of Way – Local law No. 1 of 2015 regulating and creating a permitting system of use and cuts and openings in and under Town rights of way.
- Permit Revocation §667(A)-(C).

Town of Charlotte

- Permits and Rezoning Required under Article VI, §618(B)(1)-(8) of the Town of Charlotte Zoning Law which includes the application requirements for Wind Energy Facilities.
- Wind Overlay District Rules §618(D)(2)-(3).
- Applications for Wind Energy Conversion System and Wind Overlay District §618(E)(1)(a)-(E)(1)(t) - Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §618(F)(1)-(10).
- Noise, Height and Setback Easements; Variances §618(K)(1)(a)-(c).
- Creation of Wind Overlay Districts and Issuance of Special Use Permits §618(L)(1)-(4).
- Permit Revocation §618(O)(1)-(3).

Town of Cherry Creek

- Permits and Rezoning Required Article VI, Local Law 2 of 2011 §5(A)-(H) which includes the application requirements for Wind Energy Facilities.
- Applications for Wind Energy Conversion Systems and Wind Overlay District §8(A)(1)-(20).
- Application Review Process §9(A)-(J).
- Noise and Setback Easements; Variances §14(A)(1)-(3).
- Creation of Wind Overlay District and Issuance of Special Permits §15(A)-(D).
- Fees §28(A)-(D).
- Enforcement; Penalties and remedies for violations §30(A)-(C).
- Permit Revocation §18(A)-(C).

Town of Stockton

- The Project components that will be located in the Town of Stockton will be limited to a portion of the generator lead line and the point of interconnect substation, both of which will be located within the Agricultural (A) or Agricultural Residential (AR) Zoning Districts. According to Section 407 Land Use Matrix of the Town of Stockton Zoning Regulations, uses related to utilities are allowed by right in the A and AR districts and uses related to wind energy are allowed in the A and AR districts upon the issuance of a special use permit.

Pursuant to PSL Section 172 and 16 NYCRR 1001.31, these procedural requirements are supplanted and the Applicant is instructed to not request the Board to not apply them. In other words, these requirements are supplanted as a matter of law, and no further showing is required of the Applicant in order for the Board to supplant them.

In addition, with the assistance and input of the local communities, the Applicant compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed facility and interconnection:

Town of Arkwright

- Creation of Wind Overlay Zones §656(A) of the Town of Arkwright Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District and the T-Transitional Use Zone.
- Standards for WECS §659(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, the maximum total height of any WECS shall be 420 feet (Subsequent to the filing of the PSS, the Town of Arkwright has enacted Local Law No. ___ of 2016 amending its Zoning Law to limit WECS to a total height of 500 ft.).
 - *Limits on Construction Activity Times* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval).
- Required Safety Measures §660(A)-(G).
- Traffic Routes §661(A)-(C).
- Setbacks for Wind Energy Conversion Systems §662(A)-(E) including:
 - *Noise Limits* – Pursuant to Article VI-A, §662(A-B) of the Town of Arkwright Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI-A, §662(E) of the Town of Arkwright Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,200 feet from the nearest existing off-Site residence,
 - 1.5 times the total height of the WECS from any non-WECS structure or above ground utilities,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,200 feet or 200% of the total tower height, whichever is greater, from boundary of existing trails, trail facilities, and recreation areas.

Town of Charlotte

- Wind Overlay District Rules – Pursuant to Article VI, §618(D)(1) of the Town of Charlotte Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District.
- Standards for WECS §618(G)(1)(a)-(s) including:
 - *Turbine Height* – Pursuant to Article VI, §618(G)(1)(m) of the Town of Charlotte Zoning Law, the maximum total height of any WECS shall be 500 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §618(H)(1)-(7).
- Traffic Routes §618(I)(1)-(3).
- Setbacks for Wind Energy Conversion Systems §618(J)(1)-(6) including:
 - *Noise Limits* – Pursuant to Article VI, §618(J)(1-2) of the Town of Charlotte Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI, §618(J)(5) of the Town of Charlotte Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Cherry Creek

- Wind Overlay District Rules – Pursuant to Article VII, Local Law 2 of 2011 §7(A) of the Town of Cherry Creek Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential District III.
- Standards for WECS §10(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(13) of the Town of Cherry Creek Zoning Law, the maximum total height of any WECS shall be 420 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §11(A)-(F).
- Traffic Routes §12(A)-(C).
- Setbacks for Wind Energy Conversion Systems §13(A)-(F) including:
 - *Noise Limits* – Pursuant to Article VII, Local Law 2 of 2011 §13(A-B) of the Town of Cherry Creek Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50

dBa, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.

- **Setbacks** – Pursuant to Article VII, Local Law 2 of 2011 §13(1-5) of the Town of Cherry Creek Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Stockton

- Upon review of the Town of Stockton's Zoning Regulations and consultation with town officials there does not appear to be any substantive requirements associated with the point of interconnect substation and generator lead line.

Finally, the Applicant is providing a list of those substantive standards that it plans to request the New York State Siting Board rule are unduly burdensome in accordance with the PSL, Section 168, part e.

Town of Cherry Creek

- Turbine Height –§10(A)(13) the maximum total height of any WECS shall be 420 feet.
- Limits on Construction Activity Times – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §16(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Charlotte

- Limits on Construction Activity Times – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §618(M)(1)-(3)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Arkwright

- Limits on Construction Activity Times – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Required Safety Measures §660(A)-(G) – Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers.
- Abatement §665(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

The Applicant is committed to continuing its consultation with the host municipalities for this Project in particular to the local laws applicable to the Project. This letter summarizes our understanding of the local laws that would otherwise apply to the Project absent the Article 10 process. Please confirm we have appropriately identified all local laws of a procedural and substantive nature, or otherwise please identify any such laws that are not summarized above.

We appreciate your assistance.

Sincerely,



Seth Wilmore

cc: Daniel Spitzer, Esq.



February 23, 2016

Town of Cherry Creek
PO Box 98
6845 Main Street
Cherry Creek, NY 14723

Town of Charlotte
2637 Thornton Road
Sinclairville, NY 14782

Town of Stockton
7344 Route 380
Stockton, NY 14784

Town of Arkwright
9543 Center Road
Fredonia, NY 14063

**RE: Cassadaga Wind Project
Host Town Local Laws**

Dear Mr. Young:

As you know, Cassadaga Wind LLC (the Applicant), intends to submit an Application in March 2016 to construct a major electric generating facility under Article 10 of the Public Service Law (PSL) in order to meet the timeframes set forth by the New York Independent Systems Operator. The Cassadaga Wind Project ("Project") is a proposed 126 megawatt wind powered electric generating facility located within the Towns of Charlotte, Cherry Creek, Arkwright, and Stockton. The proposed Project consists of all activities necessary for the construction and operation of a commercial-scale wind power project, including the installation and operation of up to 58 wind turbines, together with associated collection lines, access roads, up to two permanent meteorological towers, one operation and maintenance building, and two temporary construction staging/laydown areas. To deliver electricity to the New York State power grid, the Applicant proposes to construct a collection substation, a 5.5-mile 115 kilovolt (kV) generator lead line, and a point of interconnection substation, which will interconnect with National Grid's Dunkirk-Moon 115 kV transmission line.

It should be noted that the Towns of Charlotte¹, Cherry Creek², Arkwright³, and Stockton⁴ each have their own Wind Energy Conversion Laws which would be applicable, but for the passage of Article 10 which supplants the procedural requirement of these local laws.

¹ Wind Energy Conversion Systems Law located at Article VI, §618 of the town of Charlotte Zoning Law

² Wind Energy Facilities Law located in Local Law 2 of 2011 of the Town of Cherry Creek Zoning Law

³ Wind Energy Facilities Law located at Article VI-A, §650 of the Town of Arkwright Zoning Law

⁴ Local Law for the year 2005 amending Local Law 1 of 1994 adding Article XVI, Wind Energy Conversion Systems of the Town of Stockton Zoning Law



Article 10 provides for the siting review of major electric generating facilities in New York State in a unified proceeding instead of requiring a developer to apply for numerous state and local permits. During preparation of the required Preliminary Scoping Statement, the Applicant, with the assistance and input of the local communities, compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature required for the construction or operation of the proposed Project and interconnection:

Town of Arkwright

- Permits Required for Wind Overlay District and Special Use Permit pursuant to Article VI A, Wind Energy Facilities §653(A)-(H) which includes the application requirements for Wind Energy Facilities Creation of Wind Overlay Zone §656 (B)-(C).
- Application for Wind Energy Conversion Systems §657(A)(1)-(20)- Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §658(A)-(J).
- Noise and Setback Easements §663(A)(1)-(3).
- Creation of Wind Overlay Zones and Issuances of Special Use Permits §664(A)-(D).
- Fees §671 (A)-(D).
- Enforcement; Penalties and remedies for violation §673 (A)-(C).
- Use of Town Rights of Way – Local law No. 1 of 2015 regulating and creating a permitting system of use and cuts and openings in and under Town rights of way.
- Permit Revocation §667(A)-(C).

Town of Charlotte

- Permits and Rezoning Required under Article VI, §618(B)(1)-(8) of the Town of Charlotte Zoning Law which includes the application requirements for Wind Energy Facilities.
- Wind Overlay District Rules §618(D)(2)-(3).
- Applications for Wind Energy Conversion System and Wind Overlay District §618(E)(1)(a)-(E)(1)(t) - Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §618(F)(1)-(10).
- Noise, Height and Setback Easements; Variances §618(K)(1)(a)-(c).
- Creation of Wind Overlay Districts and Issuance of Special Use Permits §618(L)(1)-(4).
- Permit Revocation §618(O)(1)-(3).

Town of Cherry Creek

- Permits and Rezoning Required Article VI, Local Law 2 of 2011 §5(A)-(H) which includes the application requirements for Wind Energy Facilities.
- Applications for Wind Energy Conversion Systems and Wind Overlay District §8(A)(1)-(20).
- Application Review Process §9(A)-(J).
- Noise and Setback Easements; Variances §14(A)(1)-(3).
- Creation of Wind Overlay District and Issuance of Special Permits §15(A)-(D).
- Fees §28(A)-D).
- Enforcement; Penalties and remedies for violations §30(A)-(C).
- Permit Revocation §18(A)-(C).

Town of Stockton

- The Project components that will be located in the Town of Stockton will be limited to a portion of the generator lead line and the point of interconnect substation, both of which will be located within the Agricultural (A) or Agricultural Residential (AR) Zoning Districts. According to Section 407 Land Use Matrix of the Town of Stockton Zoning Regulations, uses related to utilities are allowed by right in the A and AR districts and uses related to wind energy are allowed in the A and AR districts upon the issuance of a special use permit.

Pursuant to PSL Section 172 and 16 NYCRR 1001.31, these procedural requirements are supplanted and the Applicant is instructed to not request the Board to not apply them. In other words, these requirements are supplanted as a matter of law, and no further showing is required of the Applicant in order for the Board to supplant them.

In addition, with the assistance and input of the local communities, the Applicant compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed facility and interconnection:

Town of Arkwright

- Creation of Wind Overlay Zones §656(A) of the Town of Arkwright Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District and the T-Transitional Use Zone.
- Standards for WECS §659(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, the maximum total height of any WECS shall be 420 feet (Subsequent to the filing of the PSS, the Town of Arkwright has enacted Local Law No. __ of 2016 amending its Zoning Law to limit WECS to a total height of 500 ft.).
 - *Limits on Construction Activity Times* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval).
- Required Safety Measures §660(A)-(G).
- Traffic Routes §661(A)-(C).
- Setbacks for Wind Energy Conversion Systems §662(A)-(E) including:
 - *Noise Limits* – Pursuant to Article VI-A; §662(A-B) of the Town of Arkwright Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI-A, §662(E) of the Town of Arkwright Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,200 feet from the nearest existing off-Site residence,
 - 1.5 times the total height of the WECS from any non-WECS structure or above ground utilities,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,200 feet or 200% of the total tower height, whichever is greater, from boundary of existing trails, trail facilities, and recreation areas.

Town of Charlotte

- Wind Overlay District Rules – Pursuant to Article VI, §618(D)(1) of the Town of Charlotte Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District.
- Standards for WECS §618(G)(1)(a)-(s) including:
 - *Turbine Height* – Pursuant to Article VI, §618(G)(1)(m) of the Town of Charlotte Zoning Law, the maximum total height of any WECS shall be 500 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §618(H)(1)-(7).
- Traffic Routes §618(I)(1)-(3).
- Setbacks for Wind Energy Conversion Systems §618(J)(1)-(6) including:
 - *Noise Limits* – Pursuant to Article VI, §618(J)(1-2) of the Town of Charlotte Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI, §618(J)(5) of the Town of Charlotte Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Cherry Creek

- Wind Overlay District Rules – Pursuant to Article VII, Local Law 2 of 2011 §7(A) of the Town of Cherry Creek Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential District III.
- Standards for WECS §10(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(13) of the Town of Cherry Creek Zoning Law, the maximum total height of any WECS shall be 420 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §11(A)-(F).
- Traffic Routes §12(A)-(C).
- Setbacks for Wind Energy Conversion Systems §13(A)-(F) including:
 - *Noise Limits* – Pursuant to Article VII, Local Law 2 of 2011 §13(A-B) of the Town of Cherry Creek Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50

dBa, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.

- **Setbacks** – Pursuant to Article VII, Local Law 2 of 2011 §13(1-5) of the Town of Cherry Creek Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Stockton

- Upon review of the Town of Stockton's Zoning Regulations and consultation with town officials there does not appear to be any substantive requirements associated with the point of interconnect substation and generator lead line.

Finally, the Applicant is providing a list of those substantive standards that it plans to request the New York State Siting Board rule are unduly burdensome in accordance with the PSL, Section 168, part e.

Town of Cherry Creek

- Turbine Height –§10(A)(13) the maximum total height of any WECS shall be 420 feet.
- Limits on Construction Activity Times – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §16(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Charlotte

- Limits on Construction Activity Times – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §618(M)(1)-(3)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Arkwright

- Limits on Construction Activity Times – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Required Safety Measures §660(A)-(G) – Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers.
- Abatement §665(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

The Applicant is committed to continuing its consultation with the host municipalities for this Project in particular to the local laws applicable to the Project. This letter summarizes our understanding of the local laws that would otherwise apply to the Project absent the Article 10 process. Please confirm we have appropriately identified all local laws of a procedural and substantive nature, or otherwise please identify any such laws that are not summarized above.

We appreciate your assistance.

Sincerely,



Seth Wilmore

cc: Daniel Spitzer, Esq.



February 23, 2016

Town of Arkwright
9543 Center Road
Fredonia, NY 14063

Town of Cherry Creek
PO Box 98
6845 Main Street
Cherry Creek, NY 14723

Town of Charlotte
2637 Thornton Road
Sinclairville, NY 14782

Town of Stockton
7344 Route 380
Stockton, NY 14784

**RE: Cassadaga Wind Project
Host Town Local Laws**

Dear Mr. Norton:

As you know, Cassadaga Wind LLC (the Applicant), intends to submit an Application in March 2016 to construct a major electric generating facility under Article 10 of the Public Service Law (PSL) in order to meet the timeframes set forth by the New York Independent Systems Operator. The Cassadaga Wind Project ("Project") is a proposed 126 megawatt wind powered electric generating facility located within the Towns of Charlotte, Cherry Creek, Arkwright, and Stockton. The proposed Project consists of all activities necessary for the construction and operation of a commercial-scale wind power project, including the installation and operation of up to 58 wind turbines, together with associated collection lines, access roads, up to two permanent meteorological towers, one operation and maintenance building, and two temporary construction staging/laydown areas. To deliver electricity to the New York State power grid, the Applicant proposes to construct a collection substation, a 5.5-mile 115 kilovolt (kV) generator lead line, and a point of interconnection substation, which will interconnect with National Grid's Dunkirk-Moon 115 kV transmission line.

It should be noted that the Towns of Charlotte¹, Cherry Creek², Arkwright³, and Stockton⁴ each have their own Wind Energy Conversion Laws which would be applicable, but for the passage of Article 10 which supplants the procedural requirement of these local laws.

¹ Wind Energy Conversion Systems Law located at Article VI, §618 of the town of Charlotte Zoning Law

² Wind Energy Facilities Law located in Local Law 2 of 2011 of the Town of Cherry Creek Zoning Law

³ Wind Energy Facilities Law located at Article VI-A, §650 of the Town of Arkwright Zoning Law

⁴ Local Law for the year 2005 amending Local Law 1 of 1994 adding Article XVI, Wind Energy Conversion Systems of the Town of Stockton Zoning Law



Article 10 provides for the siting review of major electric generating facilities in New York State in a unified proceeding instead of requiring a developer to apply for numerous state and local permits. During preparation of the required Preliminary Scoping Statement, the Applicant, with the assistance and input of the local communities, compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature required for the construction or operation of the proposed Project and interconnection:

Town of Arkwright

- Permits Required for Wind Overlay District and Special Use Permit pursuant to Article VI A, Wind Energy Facilities §653(A)-(H) which includes the application requirements for Wind Energy Facilities Creation of Wind Overlay Zone §656 (B)-(C).
- Application for Wind Energy Conversion Systems §657(A)(1)-(20)- Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §658(A)-(J).
- Noise and Setback Easements §663(A)(1)-(3).
- Creation of Wind Overlay Zones and Issuances of Special Use Permits §664(A)-(D).
- Fees §671 (A)-(D).
- Enforcement; Penalties and remedies for violation §673 (A)-(C).
- Use of Town Rights of Way – Local law No. 1 of 2015 regulating and creating a permitting system of use and cuts and openings in and under Town rights of way.
- Permit Revocation §667(A)-(C).

Town of Charlotte

- Permits and Rezoning Required under Article VI, §618(B)(1)-(8) of the Town of Charlotte Zoning Law which includes the application requirements for Wind Energy Facilities.
- Wind Overlay District Rules §618(D)(2)-(3).
- Applications for Wind Energy Conversion System and Wind Overlay District §618(E)(1)(a)-(E)(1)(t) - Some of the requirements will be provided in the Article 10 Application.
- Application Review Process §618(F)(1)-(10).
- Noise, Height and Setback Easements; Variances §618(K)(1)(a)-(c).
- Creation of Wind Overlay Districts and Issuance of Special Use Permits §618(L)(1)-(4).
- Permit Revocation §618(O)(1)-(3).

Town of Cherry Creek

- Permits and Rezoning Required Article VI, Local Law 2 of 2011 §5(A)-(H) which includes the application requirements for Wind Energy Facilities.
- Applications for Wind Energy Conversion Systems and Wind Overlay District §8(A)(1)-(20).
- Application Review Process §9(A)-(J).
- Noise and Setback Easements; Variances §14(A)(1)-(3).
- Creation of Wind Overlay District and Issuance of Special Permits §15(A)-(D).
- Fees §28(A)-D).
- Enforcement; Penalties and remedies for violations §30(A)-(C).
- Permit Revocation §18(A)-(C).

Town of Stockton

- The Project components that will be located in the Town of Stockton will be limited to a portion of the generator lead line and the point of interconnect substation, both of which will be located within the Agricultural (A) or Agricultural Residential (AR) Zoning Districts. According to Section 407 Land Use Matrix of the Town of Stockton Zoning Regulations, uses related to utilities are allowed by right in the A and AR districts and uses related to wind energy are allowed in the A and AR districts upon the issuance of a special use permit.

Pursuant to PSL Section 172 and 16 NYCRR 1001.31, these procedural requirements are supplanted and the Applicant is instructed to not request the Board to not apply them. In other words, these requirements are supplanted as a matter of law, and no further showing is required of the Applicant in order for the Board to supplant them.

In addition, with the assistance and input of the local communities, the Applicant compiled a listing of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed facility and interconnection:

Town of Arkwright

- Creation of Wind Overlay Zones §656(A) of the Town of Arkwright Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District and the T-Transitional Use Zone.
- Standards for WECS §659(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, the maximum total height of any WECS shall be 420 feet (Subsequent to the filing of the PSS, the Town of Arkwright has enacted Local Law No. __ of 2016 amending its Zoning Law to limit WECS to a total height of 500 ft.).
 - *Limits on Construction Activity Times* – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval).
- Required Safety Measures §660(A)-(G).
- Traffic Routes §661(A)-(C).
- Setbacks for Wind Energy Conversion Systems §662(A)-(E) including:
 - *Noise Limits* – Pursuant to Article VI-A, §662(A-B) of the Town of Arkwright Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI-A, §662(E) of the Town of Arkwright Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,200 feet from the nearest existing off-Site residence,
 - 1.5 times the total height of the WECS from any non-WECS structure or above ground utilities,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,200 feet or 200% of the total tower height, whichever is greater, from boundary of existing trails, trail facilities, and recreation areas.

Town of Charlotte

- Wind Overlay District Rules – Pursuant to Article VI, §618(D)(1) of the Town of Charlotte Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential (AR1) District.
- Standards for WECS §618(G)(1)(a)-(s) including:
 - *Turbine Height* – Pursuant to Article VI, §618(G)(1)(m) of the Town of Charlotte Zoning Law, the maximum total height of any WECS shall be 500 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §618(H)(1)-(7).
- Traffic Routes §618(I)(1)-(3).
- Setbacks for Wind Energy Conversion Systems §618(J)(1)-(6) including:
 - *Noise Limits* – Pursuant to Article VI, §618(J)(1-2) of the Town of Charlotte Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50 dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.
 - *Setbacks* – Pursuant to Article VI, §618(J)(5) of the Town of Charlotte Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Cherry Creek

- Wind Overlay District Rules – Pursuant to Article VII, Local Law 2 of 2011 §7(A) of the Town of Cherry Creek Zoning Law, wind Overlay Districts may only be created in the Agricultural-Residential District III.
- Standards for WECS §10(A)(1)-(17) including:
 - *Turbine Height* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(13) of the Town of Cherry Creek Zoning Law, the maximum total height of any WECS shall be 420 feet.
 - *Limits on Construction Activity Times* – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval).
- Required Safety Measures §11(A)-(F).
- Traffic Routes §12(A)-(C).
- Setbacks for Wind Energy Conversion Systems §13(A)-(F) including:
 - *Noise Limits* – Pursuant to Article VII, Local Law 2 of 2011 §13(A-B) of the Town of Cherry Creek Zoning Law, the statistical sound pressure level generated by a WECS shall not exceed L10 50 dBA at the closest exterior wall of any existing primary structure. If the ambient sound pressure exceeds 50

dBA, the standard shall be ambient dBA plus 5 dBA. If the audible noise due to WECS operations contains a steady pure tone, these standards shall be reduced by 5 dBA.

- **Setbacks** – Pursuant to Article VII, Local Law 2 of 2011 §13(1-5) of the Town of Cherry Creek Zoning Law, each WECS shall be setback a minimum distance of:
 - 500 feet from the nearest non-participating property line,
 - 500 feet from the nearest public road,
 - 1,000 feet from the nearest existing primary structure,
 - 100 feet from the edge of State wetlands,
 - 500 feet from gas wells, and
 - 1,000 feet from any other WECS.

Town of Stockton

- Upon review of the Town of Stockton's Zoning Regulations and consultation with town officials there does not appear to be any substantive requirements associated with the point of interconnect substation and generator lead line.

Finally, the Applicant is providing a list of those substantive standards that it plans to request the New York State Siting Board rule are unduly burdensome in accordance with the PSL, Section 168, part e.

Town of Cherry Creek

- Turbine Height – §10(A)(13) the maximum total height of any WECS shall be 420 feet.
- Limits on Construction Activity Times – Pursuant to Article VII, Local Law 2 of 2011 §10(A)(14) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §16(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Charlotte

- Limits on Construction Activity Times – Pursuant to Article VI, §618(G)(1)(n) of the Town of Charlotte Zoning Law, construction of the WECS shall be limited to the hours of 7 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Zoning Board of Appeals approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Abatement §618(M)(1)-(3)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

Town of Arkwright

- Limits on Construction Activity Times – Pursuant to Article VI-A, §659(A)(14) of the Town of Arkwright Zoning Law, construction of the WECS shall be limited to the hours of 8 am to 8 pm, except for certain activities that require cooler temperatures than are possible during the day (subject to Town approval). The Applicant anticipates requesting to extend construction work hours for WECS to 5:30 a.m. to 10:00 p.m., on Monday through Saturday and 7:00 a.m. to 8:00 p.m. on Sunday, and allow a variance from these restrictions on a case by case basis upon request and with the approval of the On-Site Monitor with notice to the Towns.
- Required Safety Measures §660(A)-(G) – Unless the property owner submits a written request that no fencing be required, a six-foot-high fence with a locking portal shall be required to enclose each tower or group of towers.
- Abatement §665(A)-(C)- However, the Application will include a decommissioning plan consistent with the requirements of 16 NYCRR 1001.29.

The Applicant is committed to continuing its consultation with the host municipalities for this Project in particular to the local laws applicable to the Project. This letter summarizes our understanding of the local laws that would otherwise apply to the Project absent the Article 10 process. Please confirm we have appropriately identified all local laws of a procedural and substantive nature, or otherwise please identify any such laws that are not summarized above.

We appreciate your assistance.

Sincerely,



Seth Wilmore

cc: Daniel Spitzer, Esq.