



**Department of
Public Service**

Public Service Commission

Audrey Zibelman

Chair

Patricia L. Acampora

Gregg C. Sayre

Diane X. Burman

Commissioners

Kimberly A. Harriman

General Counsel

Kathleen H. Burgess

Secretary

Three Empire State Plaza, Albany, NY 12223-1350
www.dps.ny.gov

March 30, 2015

James A. Muscato, Esq.
Young/Sommer LLC
Executive Woods, 5 Palisades Drive, Suite 300
Albany, NY 12205
jmuscato@youngsommer.com

Re: Case 15-F-0122 – Application of Baron Winds, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a 300 MW Wind Energy Project.

Dear Mr. Muscato:

This letter is to inform you that the Staff of the New York State Department of Public Service (“DPS Staff”) has reviewed the proposed Public Involvement Program plan (“PIP Plan”) for the proposed Baron Winds Project (the “Project”) filed on behalf of Baron Winds, LLC (“Baron Winds” or the “Applicant”) on February 26, 2015, and finds it to be inadequate in several areas.

In an effort to guide and assist you in preparing an adequate PIP Plan, DPS Staff has prepared some specific recommendations, which are outlined in the following pages. DPS Staff believes that the application process will be streamlined if the Applicant develops a thorough PIP Plan that includes outreach to potentially affected stakeholders early in the process to effectively obtain preliminary input that will guide development of the scope of studies for the application.

Pursuant to 16 NYCRR §1000.4(e), Baron Winds “shall within 30 days consider the measures recommended by DPS Staff and, in a final written Public Involvement

Program plan filed with the Secretary, shall as to each specific measure either revise the Public Involvement Program plan to incorporate the DPS Staff recommendation, or provide a written explanation as to why it decided not to incorporate the recommendation.”

If you have any questions or need additional information regarding the attached DPS Staff recommendations, please contact Lorna Gillings of my Consumer Education staff at (518) 474-1788 or by e-mail at lorna.gillings@dps.ny.gov.

Sincerely,

A handwritten signature in black ink that reads "Erin O'Dell-Keller". The signature is written in a cursive style with a large initial 'E'.

Erin O'Dell-Keller
Manager, Outreach and Education
Office of Consumer Services

New York State Siting Board Case 15-F-0122
Baron Winds Project
Draft Public Involvement Program Plan
Comments of the New York State Department of Public Service
March 30, 2015

Recommendations:

DPS Staff provides the following recommendations specific to the filed draft PIP Plan:

Section 1.0 Introduction

1. The first paragraph lists municipalities where the Baron Winds Project (the “Project”) is proposed to be located and references Figure 1. However, this figure only places the project within the context of Steuben County as a whole and does not provide sufficient detail to ascertain municipal boundaries. The Applicant should reference Figure 1 when noting the Project is located in Steuben County and Figure 2 when listing the municipalities in the Project area.
2. The list of municipalities does not correspond completely with the area included within the “Project Area” map (Figure 2) and the “Study Area” map (Figure 3). The “Project Area” as outlined in both figures includes small areas located within the official boundaries of both the City of Hornell and the Village of Almond. The list of municipalities in the “Project Area” should be updated to include the City of Hornell, and the Village of Almond. The descriptions included on Figures 1 through 3 should be updated as well.

The PIP Plan should be clarified and revised throughout the document to clearly identify municipalities intended to be included in the Project Area as either directly involved, adjacent, or nearby (within the 5-mile study area) to make sure that appropriate information is provided to stakeholders and officials. Similarly, outreach efforts and contact information should be reviewed.

Section 2.0 Project Description

Section 2.2 Project Summary

1. As noted above, the first paragraph needs to include the additional village and city municipalities within the proposed Project Area.
2. This section identifies as a Project component “an overhead 230 kV transmission line and a substation, which will interconnect with NYSEG’s Hillside-Meyer 230 kV transmission line. It is anticipated that the newly constructed 230 kV transmission line will be approximately 9 miles in length.” The PIP Plan should clarify that the 230 kV transmission line is “proposed” rather than “newly constructed” since it does not yet exist. Also, this section should include a brief description of the location of the NYSEG line in relation to the Project Area. While specific details of the project components such as the location of the substation and interconnection may not be available at this time, describing the NYSEG line will give the public more context about the overall project.
3. The PIP Plan should indicate that the proposed 9 mile long 230 kV electric transmission line would not be subject to NYS Siting Board jurisdiction under Article 10; rather, it would be subject to NYS Public Service Commission jurisdiction under Public Service Law Article VII. The Article 10 requirements include consideration of cumulative impacts of related facilities, so the nature of impacts of the proposed transmission line would need to be described in the Article 10 proceeding. The Applicant should consider whether the application for an Article VII transmission line would be coordinated with the Article 10 application. Furthermore, DPS Staff encourages public involvement opportunities in Article VII project development, and hereby recommends that Baron Winds identify a strategy and PIP Plan that addresses the overall project components, including those that are not subject to Article 10 jurisdiction.

Section 2.3 Study Area

1. Please note comment 2 of Section 1.0 Introduction.

Section 3.0 Identification of Stakeholders

1. A fundamental first step in designing a Public Involvement Program is the identification of affected agencies and other stakeholders specific to the proposed project. The PIP Plan should describe the process to be used for identifying stakeholders, project parameters, host municipalities and updating the information as the PIP Plan is developed.
2. Please note comment 2 of Section 1.0 Introduction.
3. The term “host municipality” is used in the bulleted list of stakeholder groups and in section 3.3. Please define the term (e.g., Project components will be located with the boundaries of the municipality) as separate and distinct from adjacent municipalities and those in the Project Study Area.
4. The Article 10 regulations require a number of specific consultations with affected agencies and municipalities. The PIP Plan should include a schedule of the required consultations with approximate dates, times and locations and identifying who will be doing the outreach along with their contact information. If a consultation is not applicable to the proposed facility, the schedule should so indicate.

The schedule of required consultations should include, if applicable:

- a. consultation with DPS, the New York Independent System Operator and the local transmission owners to identify applicable requirements to be used to demonstrate the degree of compliance with all relevant applicable reliability criteria of the Northeast Power Coordinating Council Inc., New York State Reliability Council, and the local interconnecting transmission utility (16 NYCRR §1001.5(n));
- b. consultation with DPS and NYS Department of Environmental Conservation (NYS DEC) to develop an acceptable input data set, including modeling for the Applicant's proposed facilities (16 NYCRR §1001.8);
- c. in addition to the proposed wetlands consultation with the U.S. Army Corps of Engineers (ACOE), the Applicant should consider consultation with the ACOE regarding dam safety and emergency planning for the Arkport Dam, in consideration of addressing the requirements of 16 NYCRR §1001.15;

- d. consultation with the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”) to determine if a Phase IB cultural resources study is required (16 NYCRR §1001.20(a)(3));
- e. consultation with OPRHP to determine if a Phase II study based on intensive archaeological field investigations shall be conducted to assess the boundaries, integrity and significance of cultural resources identified in Phase I studies [16 NYCRR §1001.20(a)(4)];
- f. consultation with OPRHP and DPS to determine the need for and scope of work for any required Phase II cultural resources study (16 NYCRR §1001.20(a)(4));
- g. consultation with local historic preservation groups to identify sites or structures listed or eligible for listing on the State or National Register of Historic Places within the view shed of the Project and within the Study Area (16 NYCRR §1001.20(b));
- h. consultation with NYS DEC, DPS, and OPRHP to establish representative viewpoints for the photographic simulations of the facilities and interconnections (16 NYCRR §1001.24(b)(4));
- i. consultation with the affected school districts to inform the Applicant's estimate of incremental school district operating and infrastructure costs due to the construction and operation of the Project (16 NYCRR §1001.27(t));
- j. consultation with the affected municipalities, public authorities, and utilities to inform the Applicant's estimate of incremental municipal, public authority, or utility operating and infrastructure costs that will be incurred for police, fire, emergency, water, sewer, solid waste disposal, highway maintenance and other municipal, public authority, or utility services during the construction and operation phases of the Project (16 NYCRR §1001.27(g));
- k. consultation with the affected local emergency response organizations to inform the Applicant's analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and in that regard identifying any specific equipment or training deficiencies in local emergency response capacity (16 NYCRR §1001.27(k));

- l. consultation with the municipalities or other local agencies whose requirements are the subject of the Local Laws exhibit of the application to determine whether the Applicant has correctly identified all such requirements and to determine whether any potential request by the Applicant that the Siting Board elect to not apply any such local requirement could be obviated by design changes to the proposed Project, or otherwise (16 NYCRR §1001.31]; and
- m. consultation with the state agencies and authorities whose requirements are the subject of the State Laws and Regulations exhibit of the application to determine whether the Applicant has correctly identified all such requirements (16 NYCRR §1001.32).

Section 3.1 Affected State and Federal Agencies

1. The “New York State Research and Development Authority” should be the “New York State Energy Research and Development Authority.”
2. A regional office was identified for the NYS DEC. However, the Central Office for the agency should be identified as a State Agency stakeholder.
3. The Central Office was identified for the NYS Department of Transportation (“NYS DOT”). A regional office covering the municipalities in the Project and Study Areas should also be included in the State Agency stakeholder list.
4. The list of State Senate and Assembly members should be expanded to include representatives for the locations covered by the Study Area including Senate District 55 and 57 and Assembly Districts 131 and 148.
5. DPS Staff notes that the Federal Aviation Administration (“FAA”) DoD Preliminary Screening Tool identifies the Project Area as including locations of concern, with detailed studies required. DPS Staff recommends that the U.S. Dept. of Defense (and NOAA, as appropriate) be contacted early in the project development process (rather than generally “prior to submittal of Article 10 application” as stated at Exhibit B of the PIP Plan).
6. DPS Staff suggests including the National Park Service as a project stakeholder for its interest in the North Country National Scenic Trail, which crosses the Project Area (North Country Trail corresponds with the Finger Lakes Trail in this area). In addition, the Canisteo River is listed on the Nationwide Rivers Inventory as a potential Recreational River designee. The

National Park Service interest in potential project effects on this designation should be considered in outreach efforts. Suggested contact information: National Park Service - Rivers, Trails & Conservation Assistance, 15 State Street, Boston, MA 02109; tel. (617) 223-5191.

Section 3.2 Local Agencies

1. DPS Staff recommends that the Steuben County Planning Department be identified as an important stakeholder for early consultation. Focused outreach to this agency should include consideration of currently ongoing planning initiatives such as updates to both the Farmland Protection Plan, and to the County Economic Development Plan (in consultation with the Steuben County Industrial Development Agency). The Planning Department also coordinates updates to Steuben County Agricultural Districts, which potentially includes many properties under consideration in the Project Area. Agricultural Districts listing and mapping in several Project Area towns is due to be updated in the 2016-2017 timeframe. DPS recommends contacting Planning Director Amy Dlugos.
2. DPS Staff notes that the Project Area includes areas adjacent to and upstream from water supply reservoirs that are part of the City of Hornell water system. The City Department of Public Works should be identified as a potential stakeholder, and consultation regarding the City's interest in Project planning should be included in the PIP Plan.
3. Highway Departments of all municipalities within the Project Area and those adjoining the Project Area that are potentially involved in potential access routes to the Project Area should be included. For the Project Area, DPS Staff notes that "Danville" should be "Dansville;" and also that Highway Departments of the Towns of Hartsville and Howard are not included in the list of Local Agencies.
4. The list of fire departments should include Alfred and Andover since they are within the five mile radius of project components.

Section 3.3 Host Municipalities

1. As noted in comment 2 of Section 1, the Village of Almond and the City of Hornell should be added to the host list.

Section 3.4 Adjacent Municipalities

1. As noted in comment 2 of Section 1, there should be a better distinction between adjacent communities and those in the Project Study Area.
2. The list would be easier to follow if it was organized by County with the associated towns and villages listed under the County. For example:

Ontario County

- Town of Naples

Section 3.5 Additional Stakeholders

1. Time Warner Cable, the provider of cable telecommunications service in the area, should be included on this list.
2. A product pipeline operated by Sunoco crosses the Project Area. The owner of the pipeline should be included on this list and consulted for specific interest in location of proposed facilities in the area of the pipeline.
3. The Finger Lakes Trail Conference (“FLTC”), the coordinating group for this long-distance hiking trail that crosses through the proposed Project Area, is a potential stakeholder with an interest in proposed facilities locations near the route of the Trail. DPS Staff recommends contacting the FLTC Executive Director.
 - a. Contact information is available at:
<http://www.fltconference.org/trail/about-fltc1/contact-us/>
 - b. DPS Staff notes that the Finger Lakes Trail is also the official route of the North Country National Scenic Trail through the Southern Tier and Finger Lakes districts. As the North Country National Scenic Trail is the longest hiking trail in the US, and includes involvement of the National Park Service, there is a potential national significance that should be considered in project planning.
4. Wind energy facilities, including turbines and electric transmission facilities associated with the First Wind – Cohocton Wind Farm, are located within the Project Area. The owners of this facility should be identified as stakeholders with potential interest in the Baron Winds Project.

5. In addition to the Hornell Municipal Airport, DPS notes that the FAA-listed “D.C. Helicopters” heliport location immediately abuts the Project Area at the Village of Cohocton.

Section 3.6 Host and Adjacent Landowners

1. The last sentence of this section indicates that notification will be provided to all landowners and local businesses within and adjacent to the Project Area. As stated in comment 2 of Section 1, it is critical to define “host”, and “adjacent” or “nearby” so it is clear which municipalities will be notified. In addition to the initial notification about the Project, the Applicant should provide notification to local businesses that may be affected by construction and/or operation of the facility.

Section 3.8 Environmental Justice Communities

1. The EJ communities that were identified are noted as being within 1.1 and 2.2 miles from the Project boundary. Please also indicate that they are within the 5 mile Project Study Area.

Section 5.0 Proposed Public Involvement Program

1. This section mentions intervenor funding in several locations but does not define or explain it. Please include a brief paragraph about the intervenor funding program after the bulleted list of on-going PIP elements.

Section 5.3.1 Public Meetings

1. The PIP Plan indicates that the open houses will be held in the Towns of Howard and Cohocton. Both of these locations serve communities on the eastern side of the Project Area, but do not readily accommodate the western side. Consideration should be given to holding at least one public forum in the Hartsville/Hornellsville area. By the same token, Fremont seems more centrally located and could draw in the public from the portions of Howard, Avoca, Cohocton and Dansville that are within the Project Area.

Section 5.3.2 Educational Materials

1. The PIP Plan should note that there will be educational materials developed on intervenor funding in addition to the information on the overall Article 10 process.

Section 5.6 Activities to Encourage Stakeholder Participation in the Certification Process

1. The second paragraph indicates that “the Applicant intends to hold two open house style public meetings prior to submittal of the PSS, anticipated to be May and July.” The year 2015 should be added for clarification.

Section 6.0 Required Airport/Heliport Pre-Application Consultation

1. As noted in the Stakeholder section, DPS Staff identified that the Hornell Municipal Airport is located within three miles of the Project Area as mapped and that the FAA-listed “D.C. Helicopters” heliport location immediately abuts the Project Area at the Village of Cohocton.

Figures

1. DPS Staff recommends that the Applicant modify Figures 2 and 3 to indicate the location of New York State lands located within proximity of the Project Area and Study Area. The subtitles of each figure should be updated to reflect the inclusion of the Village of Almond and the City of Hornell as appropriate.

Exhibit A - Master List of Stakeholders/Notification List

1. Revise the Master List to include additional contacts and stakeholders as noted in DPS comments above.
2. The Master List includes representatives for two Native American nations. Please include them in Section 3.5 Additional Stakeholders – Broader Area.

Exhibit B - Affected Agency and Municipality Consultations

1. The identified “Goals of Consultation” for specific stakeholders should be revised to note comments and specific topics identified in DPS comments above.
2. The identified Goals and Schedule of Consultation for host municipality officials should be revised to ensure engagement with these officials occurs well before the “two weeks’ notice” of the Preliminary Scoping Statement filing. DPS Staff notes that the PSS indicates that not all host municipalities have been contacted as of the date of filing the PIP Plan.
3. The identified “Goals of Consultation” for the Steuben County Highway Department, and all host municipality highway departments should be broader than those identified in the PIP Plan Exhibit B.
 - a. Highway administrators should be interviewed specifically regarding any capital improvement plans and future projects that may affect Project layout, as well as planning, phasing and construction aspects of the Project. Specifically, the Applicant should inquire about any lengthy road closures, bridge replacements, and similar activities that can affect the Applicant’s planning for future construction access to the Project Area, plans for oversize load deliveries, location of storage, staging and construction support facilities, and overall development schedules.
 - b. The identified Method and Schedule for Consultation with Highway Departments should also be revised. DPS Staff recommends that agency leaders should be contacted much earlier in the outreach process than “prior to mobilization to site for construction,” as stated in Exhibit B. Any facilities location, design and transportation delivery routing within the Project Area will rely to a significant degree on the use of State and County highways.
4. DPS Staff recommends that consultations with NYS DEC include such topics as: location of facilities in relation to hazardous materials remediation sites; wildlife resources including avian and bat species studies; stream and wetland and other habitat resources; and potential environmental justice communities near the identified Project Area.
5. The identified “Goals and Schedule of Consultation” for the NYS DOT should be more broad and occur earlier than as specified in the PIP Plan. Studies of roadway limitations, potential modifications of roadway intersections or road

shoulders to accommodate oversize deliveries, and other aspects of transportation infrastructure impacts, as well as routing of oversize deliveries from outside the Project Area should be explored early enough in the project planning process to specify the scope and methodology of studies at the time the Preliminary Scoping Statement is filed.

6. DPS Staff advises that the schedule for consultation with federal agencies should be reconsidered in light of DPS comments above regarding the Department of Defense and the National Park Service.
7. The list of consultations should include stakeholders identified in the DPS comments above, e.g., Native American Nations.

Exhibit C – Example Meeting Log

1. The log should also include information on upcoming outreach activities (as they are scheduled) and list them in a separate section at the end of each log.