



August 26, 2016

Mr. Eric Miller,  
Bull Run Energy, LLC  
120 North Lee Street  
Falls Church, VA 22046

RE: Case 15-F-0377 – Application of Bull Run Energy LLC

Dear Mr. Miller:

Pease and Gustafson, LLP represents the Town of Clinton, the Town of Ellenburg, the Town of Altona, and the Town of Mooers (collectively, the “Municipalities” or “Towns”) in the above-referenced matter. Please consider this correspondence as the Municipalities collective comments on the Preliminary Scoping Statement (“PSS”) pursuant to 16 NYCRR §1000.5(g).

Although the Municipalities are generally in favor of wind energy projects, the PSS submitted by the Applicant raises some concerns.

- 1) The Municipalities do not believe the applicant has given due weight to the necessity for security during the construction period. Although the Applicant may believe the threat of vandalism during the construction phase is not a primary concern, maintaining a secure site is important to the Municipalities to prevent access by children and thrill seekers from what can only be termed an attractive nuisance. The Municipalities believe that site security will need to more adequately address this issue.
- 2) The Municipalities are concerned with the lack of detail regarding the type of turbines to be used for the project. Without this information, the Municipalities have no way to evaluate requests for variations from their wind energy laws and the overall safety of the units being proposed.
- 3) The complaint resolution process in the PSS is too vague. From past experience, the Municipalities know they will be the recipients of all complaints, unless the Applicant implements and publicizes adequate complaint resolution procedures. The complaint procedure section of the PSS has no detail whatsoever. The Municipalities request this oversight be corrected.

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4) The PSS seems to minimize the impact of potential health and safety issues related to this project on the Municipalities' early responders. The possible need for rescues of people in distress while working at the heights contemplated by the project pose a tremendous risk for the volunteers of the municipalities' emergency services. The PSS should more adequately address these issues to mitigate the adverse impact on the municipalities.

5) The Municipalities take issue with the Applicant's intention to disregard certain provisions of the Towns' wind energy laws, including set backs and hours of operations. Of particular concern, is the Applicant's focus on residential dwellings and their exclusion of other types of structures. The requirements of the Municipalities' wind energy laws, while perhaps not binding on the Siting Board, are important to the residents from a safety, economic productivity, and quality of life perspective. During this construction project, the residents will be exposed to traffic, noise, dust, and a general disturbance to their normal routine/life. A process of exceptions has been used successfully in the past for other wind projects in the area where, for instance, a Town's representative (on-site monitor) is contacted with a need to extend work hours beyond the limits contained in the local ordinance, the request is evaluated, communicated to the Town, and permission granted. Examples of such exceptions would include, but not be limited to:

(a) Concrete pours starting early in hot months (usually 5:30a.m.) in order to maintain the specified temperature of the concrete;

(b) Blading Towers early in the morning or in the evening to take advantage of the lower wind conditions;

(c) After hours work for equipment break downs where a task must be finished (such as a base pour that must be continuous with no cold joints, a component lift which must be completed for safety reasons); and

(d) Substation transformer commissioning.

A process that uses "exceptions" should be encouraged, rather than the complete removal of work day limits as proposed by the Applicant, which could result in safety concerns from overworked labor, work performed in unsafe conditions due to inadequate lighting, as well as continuous disruption to the residents.

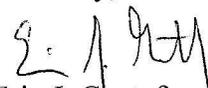
6) GHD Consulting Services, Inc. ("GHD"), lead engineering firm for the Municipalities, has the following specific comments with regard to the Applicant's PSS:

(a) Linear measurement provided in meters should also be provided in feet for understandability and perception (e.g. 36 meters (118.11 feet));

- (b) Figures, maps, & exhibits should have a pattern or design to the lines/roads/figures in addition to color so that should they be reproduced in black and white, they will still be understandable;
- (c) Noise monitoring locations should be located away from obstacles, structures, or topography where sound waves could be reflected back and provide erroneous study results. The photos of the Noise Monitoring Locations show buildings in close proximity to the monitoring locations. Attention should be paid to orientation of the monitoring location to the turbine(s) in relation to all structures in the area;
- (d) Noise-Sensitive Receptors – Page 1 of the Noise Assessment Protocol, Section 2, states that Invenergy developers familiar with the local area identified these receptors by review of aerial photographs. The developer should additionally field verify and/or refer to Town/County tax/parcel information;
- (e) In Appendix 3-6, the Fire Districts Map contains colors that may not be discernable by people that have certain types of color blindness. A pattern and/or more dissimilar colors would be helpful. This comment should be applied to all graphic maps, exhibits, appendices, etc.;
- (f) Section 25.3, Road Survey, should include identifying gravel road widths, especially if the roads are to be considered for haul routes. If gravel roads are to be utilized for hauling, they should be of sufficient width to allow large vehicles such as dump trucks and concrete trucks to safely pass one another when they meet;

Thank you for your consideration, and we look forward to the Applicant's response. Should you have any questions or concerns, please do not hesitate to contact me by email at [ericj@pgnylaw.com](mailto:ericj@pgnylaw.com) or by phone at (315) 769-3898.

Sincerely,



Eric J. Gustafson, Esq.  
Attorney for the Municipalities

cc: Honorable Kathleen H. Burgess  
Service List

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