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October 7, 2016

Via Email and Overnight Delivery

Kevin Casutto, Presiding Examiner
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case No. 14-F-0490: Application of Cassadaga Wind, LLC, for a Certificate of Environmental Compatibility and Public Need to Construct a Major Electric Generating Facility in the Towns of Charlotte, Cherry Creek, Stockton, and Arkwright, New York

Dear Presiding Examiner Casutto:

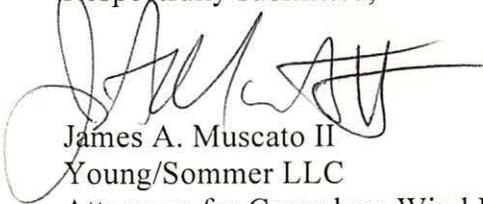
As you know, we represent Cassadaga Wind LLC ("Applicant") in the above referenced proceeding. On May 27, 2016 Cassadaga Wind LLC filed an Article 10 Application with the Secretary pursuant to NY Public Service Law Section 164. Subsequently, the Board on Electric Generation Siting and the Environment requested additional information pursuant to PSL §165.

The Applicant has now submitted a supplement to the Application ("Application Supplement") which contains the additional requested information and materials. The Applicant is hereby requesting protection from public disclosure for certain confidential information contained within the Application Supplement. Specifically, the Applicant seeks protection for materials containing information regarding endangered and threatened species in the project area. The Confidential Information is attached hereto.

This data is statutorily exempt from FOIL pursuant to Public Officer's Law § 87(2)(a); NY ECL § 3-0301(2)(r). These provisions permit agencies such as DEC, notwithstanding the FOIL provisions, to deny access to records containing information about endangered, protected or threatened species or ecological communities, as the terms are defined in NY ECL § 11-0535(1). DEC may also deny access to information pertaining to other rare species as defined in NY ECL § 9-1503. These are statutory exemptions to FOIL which are permitted under NY Public Officers Law § 87(2)(a), which allows an agency to withhold records which are "specifically exempted from disclosure by state or federal statute." In addition, 16 NYCRR 6-1.3-1.4 identify protections for such confidential information specific to Commission proceedings such as this one.

For the foregoing reasons, as well as the reasons stated in our letter of May 27, 2016, which should be considered incorporated here by reference, the above identified, Confidential Information should be exempted from public disclosure. Should you have any questions regarding this filing, please contact me.

Respectfully submitted,



James A. Muscato II
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Attorneys for Cassadaga Wind LLC

Attachments

Cc: Secretary to the Commission (w/out enclosures)
Parties to the Article 10 Proceeding (w/out enclosures)