

Aug 15, 2018

Via Email

Hon. James Costello\Administrative Law Judge

NYDPS

Empire State Plaza

Albany NY

Hon. Maria E. Villa

Administrative Law Judge

NYSDEC

625 Broadway,

Albany NY

Re: Response to Baron Winds' Response to Motion in Case No. 15-F-0122: Application of Baron Winds LLC for a Certificate of Environmental Compatibility and Public Need to Article 10 to construction a Major Electric Generating Facility in the Towns of Cohocton, Dansville, Fremont, and Wayland, County of Steuben, NY-**Motion for Corrective Actions under public involvement as prescribed by the PIP, Article 10 Law and Regulations as well as any other means to properly notify and engage the public.**

Dear Judge Costello and Judge Villa,

Please accept this as a Response to Baron Winds Response to my Motion for Corrective Actions under public involvement as prescribed by the PIP, Article 10 Law and Regulations as well as any other means to properly notify and engage the public. The timing is dictated by the actions of Baron Winds and the upstream designations and transfers. This motion is not intended to question the actual transfer that was initiated in December of 2017 under Section 68, 69 or 70 nor PSL 2.13.

1. WEBSITE

The website is now linked and fixed but all the content is not apparent and is not in the same configuration making it difficult to review.

2. AG Code

The AG's Code has been updated but is signed by IRIS not IRUS.

3. ACTIVITIES TO ENCOURAGE STAKEHOLDER PARTICIPATION IN THE CERTIFICATION PROCESS

I am awaiting a written response to my FOILA from the Cohocton Clerk but as to not delay the process, I will provide her verbal response.

Are there Maps of the Baron Winds Project located at the Town Hall?

On **August 6, 2018**, Jane Towner came to Cohocton to display Project Maps.

At the Nov 21, 2017 Board Meeting was the Host Agreement discussed? No.

The Dec 19, 2017 Meeting was the passage of the Host Agreement. Was it a Hearing and was it noticed? No.

Was the Host Agreement read aloud and by whom? NO

It was brought up by the Supervisor for a vote and without discussion, it was passed.

Councilman Towner abstained, did he leave the room? NO

Did Councilman Wise vote? YES

Were there any public Cohocton Town Board Meetings on 4/26/2017, 8/21/17 or 9/21/17? No but she would look to see if any other meetings occurred.

3. The PIP log has now been updated on the website, but is not an entry into the case.

The relief requested is 1-7 as follows:

1. **More timely and immediate updating of PIP tracking.**
2. **ONE website or cross link to act as one website with all information easily accessed as promised including ownership, contact information, current photosimulations and maps and continuous updates on Project developments, meetings and announcements to keep the public continuously informed.**

In addition to the Project updated, the Applicant anticipates that the website will include: • Project description; • Project benefits and need; • Summary of permitting requirements; • Links

to the Siting Board Article 10 Public Information Coordinator, the Siting Board home page, and case-specific documents; • Information on the Article 10 process; • Summary of the Intervenor Funding process and how to apply; • Project layout figures and photosimulations/renderings; • Project contact information, including email address and toll free telephone number • Copies of Article 10 and related licensing documents; • A schedule that lists dates/times/locations for outreach events and key milestone dates, such as when the application will be filed; and • Tracking Reports summarizing the Project's PIP activities to date, including summaries of stakeholder interactions, comments, and questions.

As indicated above, the website includes Project contact information (email address and toll free telephone number). The Applicant intends to respond directly to all substantive inquiries and comments submitted to the Project contact, and will document all such correspondence. Email and postal addresses collected through the website will be added to the master stakeholder list.

3. The relief for the AG Code is partially resolved.

The Attorney General's Wind Code of Conduct was signed by the new entities including Innogy and two IRIS Wind LLC's and acknowledged by the AG mid July 2018. The contact for the AG is missing.

4. Request for "copies of" or "content of" or "terminology used" in legal documents that are signed under the transfer AND will change or impact the state, county, municipality or the Article 10 process or project or content of any Exhibits or submissions already provided; Included but not limited to new leases, good neighbor contracts, liens etc.

If the form or content changes the application, than the applicant should start over by definition of acceptance of transfer.

5. Proper Notification of the public under Article 10 as well as Baron Winds' promise in the PIP.

To date, the public meetings noticed under PIP (the Applicant intends to hold three open house style public meetings prior to submittal of the PSS, anticipated to be May and July, 2015) came before the shift of turbines to Cohocton. While there is continuous presence of Baron Winds representative in Freemont with their wind law under review, there has been lacking representation and discussion in Cohocton. Most of the public are under the impression that Cohocton is receiving at most 2 turbines. **No matter who is at fault, this has to be corrected such that the public can participate in the process and request intervenor funds prior to the acceptance of the application which by definition is NOT timely :**

As per Article 10 definition's (ah) Public Involvement Program (PIP): A series of coordinated activities that provides a variety of effective public participation opportunities by which public concerns can be identified as early as possible throughout the various stages of the decision-making process, ensures communication between stakeholders and an applicant, and results in education of the public as to the specific proposal and the Article 10 process.

And 1000.7 assuming a change in location of more than 25 turbines is considered an alternative-

1000.7 Publication and Content of Notices

(f) If an alternative to the applicant's proposal that was not listed as reasonable and available in the application is subsequently proposed by any party, the applicant shall give prompt notice of such alternative, unless the presiding examiner rules that such alternative is not reasonable and available or that further notice is unnecessary to substantially inform the public of the location of the proposed alternative. The notice shall include text and a map(s) at a size and level of detail to substantially inform the public of the alternative (unless the publishing newspaper determines that inclusion of a map is infeasible) and the name, address, telephone number and the E-mail address of a representative of the party proposing such alternative from whom further information can be obtained.

6. According to Article 10, 1000.5 there should exist-

(6) a description of the applicant, its formation, status, structure, holdings, affiliate relationships, powers (including whether it has or will seek to obtain the power of eminent domain, either directly or indirectly), franchises and consents,

The current correction of ownership NEEDS to include the entities mentioned in the AG's Code of Conduct....IRIS Wind Development and IRIS Wind Holdings; as well as, upstream ownership change as of May 2018, E.On and REW.

7. As per Article 10 the presiding examiner may require the applicant to publish notice:

(g) At any significant point in the certification process, the presiding examiner may require the applicant to publish a notice, as described in this Section, containing appropriate information, such as:

(1) a brief description of the significant events in the certification proceeding that have occurred and those that are expected to occur;

(2) a statement that the record of the proceeding may be examined during normal business hours at the Offices of the DPS in Albany, New York, giving the address thereof, and, where the presiding examiner has so required, at specified public locations in the vicinity of the proposed site; and

(3) a statement that any person may file comments for the Board's consideration.

Please accept this as a request for review of the presiding examiner to require the applicant to publish a notice to help uphold the goal as per 1000.4 of Public Involvement -

To ensure throughout the Article 10 process that the Board is fully aware of the concerns of stakeholders and that the Board's consideration of an application is not delayed, it is the Board's policy to require applicants to actively seek public participation throughout the planning, pre-application, certification, compliance, and implementation process. It is also the Board's policy to encourage stakeholders to participate at the earliest opportunity in the review of the applicant's proposal so that their input can be considered.

It has been over 6 months since they have announced the initiation of Transfer. Public Involvement is a crucial element of the Article 10 Process. The public is not delaying the process and should be provided corrective actions and ample time.

After the August 6, 2018 new appearance of Maps in Cohocton, I am adding a relief request that the party status continue to be open and special intervenor funds be made available for those impacted in Cohocton after a public Cohocton Town Presentation(not Supervisor/Attorney Meetings on the HCA).

I do not make misstatements. Baron Winds attempted to correct the issues after my Motion. One might say that it's "Better late than never" but the untimeliness prevented crucial public involvement and requires remedy.

Respectfully,

Alice Sokolow