

CASE Number: 20-F-0043

Application of Garnet Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct and Operate a Solar Generating Facility and Energy Storage System in the Town of Conquest, Cayuga County.

Comments from: Robert Vogel, Conquest NY

NOTE:

These comments are submitted in writing as an extension to verbal comments provided during the February 3rd, 2022 public comment period scheduled through Webex at 6:00 pm. Due to time constraints the Honorable Maureen Leary, requested that remaining comments be submitted in writing.

Thank you for the opportunity to present my comments regarding the Garnet solar project planned for our community in Conquest NY.

Introduction

My name is Robert Vogel and, together with my wife Christine, we have resided in our home located on Slayton Road, Conquest, NY since 1997. Our home will be adjacent to the solar arrays for the entire 480' of our west property line and for approximately 1000' of our south property line. Our property is depicted in Keymap reference C.436 and C.437 of the January Garnet Article 10 submittal document.

I am Chairperson of the Conquest Planning Board, a member of the Conquest Comprehensive Plan development steering committee, and I belong to the Conquest Against Industrial Solar community group. I am not providing comments on behalf of any board, committee, or group that I belong to. For any mention of the planning board or the town board during my comments, it will only be in the context of information/material discussed or acted upon in the setting of a planning board or town board public meeting.

Approach to Comments

To support my comments, I referred to 2 main sets of Article 10 related documents. To the best of my knowledge, these documents provide for most of the solar project scope, analysis, and activity relevant to Garnet advancing the project through installation and to operation.

The first document set is the Article 10 documents I downloaded from the Garnet site in August 2021 totaling over 4800 pages. (<https://www.garnetenergycenter.com/article-10-application>)

The second document set is the Article 10 documents I downloaded from a reference link made available by the town's legal resources in January 2022 totaling nearly 1500 pages. ([Garnet Energy Updates:19-F-0043](#) , https://adhocftp.trccompanies.com/AHT/AHT_UI/public/#/download)

The total downloaded pages are about 6300 pages. I would like to add that I am aware of numerous residents who have applied countless hours of their personal time reviewing the Article 10 documents in an effort to understand the solar project.

My comments include important aspects of our community structure to help put into perspective how Conquest has evolved recently since learning of the proposal to site the solar project in Conquest. Most residents became aware of the solar project during the summer of 2020 through a combination of public notices, media reports, and by the frequent sights and sounds of drone activity over resident properties and homes. The heightened awareness to the project was evident from this point forward by the increase of attendance at Town Board meetings along with discussion during those meetings concerning the solar project.

Comment #1:

Prior to the summer of 2020, Conquest had no formal zoning and, therefore, no zoning board. These zoning shortcomings still exist today. The Article 10 document submittals often mention that Conquest has no zoning. For some land use type regulations within Conquest, the town currently applies Local Law 2 - Dwelling Law as applicable. This is an important reference because the Garnet Article 10 document submittals (e.g., Appendix 31-1) often refer to, and consider the Local Law 2 to support their analysis or point of view for the project design.

One example of where the Local Law 2 and the Article 10 documents overlap each other is with the subject of setbacks. Where the Article 10 documents prescribe at least a 50 ft. distance from project to public road right of ways, the Local Law 2 prescribes at least a 75 ft distance from building line to center line of road. Where the Article 10 prescribes 100 feet from project to non-participating residential property lines, the Local Law 2 prescribes at least 25 ft distance from dwelling to side or rear of property line. With this comparison, the Article 10 concludes several times that the project fulfills the requirements of existing town law, which is correct.

However, in all fairness to the community for when the project takes into consideration Local Law 2, the local law was created just over 20 years ago, and could not possibly have taken into account that the law would need to apply to constructing a very large industrial-like facility such as the solar project. Though the local law may not matter in the case of a utility sized solar project, the Article 10 document submittals weigh heavily on the local law as a basis for creating proposed setback distances.

This is the stopping point for verbal public comments provided during February 3rd, 2022 public comment period scheduled through Webex at 6:00 pm. Due to time constraints the Honorable Maureen Leary, requested that remaining comments be provided in writing.

The design of setbacks is important to the final siting of the solar project for 2 main reasons:

1. The Conquest Planning Board is currently evaluating setback regulations in Conquest at the request of the Town Board. The evaluation is required to identify possible updates to the old (20 + years) setback regulations in regard to the various land usage such as residential, farming, industrial/commercial, and recreational. In addition, Conquest is currently in the process of developing a Comprehensive Plan that is likely to provide additional guidance to how the community supports setback regulations.

The solar project will significantly hinder any future efforts by the town to establish setback regulations of its own. Any effort by the town to develop setbacks for its various land usages where the distance could be greater than setback distances already imposed by the solar project will be difficult and likely contentious.

Conclusion:

As a fair approach, the project should consult with the town on setback distances prior to unilaterally defining their own setback distances based on reasoning that they comply with the Town's Local Law 2 that is irrelevant to a large industrial solar project.

2. It is reasonable to expect that solar project setback distances be greater than the project's proposed setbacks of 50 ft. (project to road right a-way) and 100 ft (Project to side and rear property lines) based on the following:
 - a. During a recent Conquest Planning Board Workshop, members were presented with data examples of setback regulations from a sampling of 17 other solar project throughout NYS. Review of the data revealed the following amongst the 17 sites:
 - Setbacks from property line range from 25 ft to 500 ft
 - Setbacks from roadway right a-way range from 50 ft to 150 ft
 - Setbacks from residence range from 100 ft to 500 ft
 - b. Preliminary data derived from the use of Geographic Information System (GIS) software and a database from FEMA (Federal Emergency Management Agency) revealed the following actual data as applicable to a building in Conquest setback from the center of the road:
 - Approximately 1800 buildings exist in Conquest
 - 55 % of the total buildings have a setback of 100 ft or more from center of road, with 49% being greater than 100 ft.
 - 75% of total buildings have setback of 80 ft or more

Conclusion:

Approval of the solar project siting should require that the project consult with the town to establish final setback distances.

Comment # 2

Garnet reinforces throughout the Article 10 documents that reaching out to town officials throughout the phases of solar project is a very important.

For a long period of time prior to May 2021, there was no active planning board in Conquest, thus hampering any possible project communication with the planning board as a whole. Since formation of a planning board in May 2021, there has been no solar project communication to the Planning Board.

Because of the large scale of the solar project, it is very complex and has a broad impact on the town. Residents should expect, as the Article 10 documents state, that the project will work closely with the stakeholders. In doing so, the project should have expected to learn of the following:

- a. In March 2021 the Town Board agreed to establish a planning board. In May 2021, the Town Board selected 7 community residents to serve on the Planning Board with the first Planning Board meeting held in June 2021. The Town Board requested the Planning Board to focus on three near-term goals that included training, knowledge of local laws and regulations, and to develop a plan for creating a Comprehensive Plan for the town.

- b. In September 2021, the Town Board approved a Planning Board recommendation to partner with Cayuga County Planning and Economic Development (CCPED) to develop a Comprehensive Plan (CP) for Conquest. At the time, Conquest was one of three towns amongst the 33 towns in Cayuga County to not have a Comprehensive Plan. The Town Board agreed to appoint residents to a 13-member Comprehensive Plan steering committee. The steering committee members represent town board, planning board, local business, agriculture, town historian, and other residents. The members live throughout Conquest from border from far west near Duck Lake to far east border, and from far south border near Seneca River to far north border. Solar energy generation is only a portion of the overall focus and goals of the steering committee. The Comprehensive Plan is about 25% complete, currently in its community survey phase, and targeted for completion in Spring 2023.
- c. During the Planning Board's January 2022 regular meeting, the Conquest Fire Company's Fire Chief was invited as part of the Planning Board's routine agenda item to invite community leaders for open discussion. The solar project was a small portion of the discussion. Fire Chief shared his frustration that the project has not communicated with the Fire Company since initial communication in Spring 2021. The role of local emergency response is significant throughout the Article 10 documents and based on Fire Chief's feedback, numerous preparations and concerns appear in need of addressing.

Conclusion:

Approval of the solar project siting should be contingent on reaching out to the stakeholders, such as the planning board and fire department. This will close the several month gap and help to collectively determine any potential concerns with the project design, and the installation and operation timeline.

Comment # 3

According to the Article 10 documents, the current siting of the solar project assets requires over 2,000 acres. The size of this project in acreage alone, is a huge impact to current land usage throughout Conquest. The impact to the town is compounded by the project's non-contiguous (non-joining) land design to obtain enough land to meet their 200 MW generation goal. The Article 10 documents illustrate in numerous maps that the solar project requires over 20 separate land locations. The multiple site location design approach demonstrates that the goal of the solar project is to meet the 200 MW generation goal and not necessarily to limit the impact of solar energy projects our town of Conquest.

Conclusion:

Approval of the solar project siting should require that a minimum number of location sites be covered with solar array panels, far less than the required 20+ sites throughout our town called out in the current proposed design. Very large contiguous land properties are available in the current design to take this approach. This approach would impact the 200 MW generation goal; however, it is a reasonable design consideration because even with reduced generation, Conquest would have done its fair share in contributing to New York's green energy goals.

Comment #4

On-going construction vehicle traffic on town roads and the operation of heavy construction equipment in fields and woods surrounding adjacent properties is not considered normal day to

day activity. It is reasonable to expect that the construction traffic and operation will be on-going 6 days a week, 7 AM to 7 PM over a 12 to 15 month period as stated in the Article 10 documents. Noise and dust will be devastating to the quiet and clean air surroundings that residents of Conquest enjoy, thus upending the normalcy of family and resident outdoor activity during the construction period.

Road safety is also of concern with the sustained heavy construction equipment on local roads. One example is Slayton Road which is a county road that intersects with NYS Route 370 on one end and NYS Route 38 on the other end for a total distance of approximately 5 miles with 55 mph speeds allowed. Slayton Road is within the solar project area and is likely to be a main access route for several solar sites. The road winds and dips throughout its entire 5-mile distance changing direction at least 12 times (South, Southwest, West). With each change in direction there is often a dip or turn, or both and in most cases not more than $\frac{1}{4}$ mile to the next dip or turn.

Conclusion:

Approval of the solar project siting should be contingent on Slayton Road, and other access roads to require the following:

- a. Construction vehicles comply to a 45 mph limit and the project holds accountable any abuses. The project place temporary construction vehicle speed limit signs throughout the access route beginning at town borders and continued throughout the route.
- b. Signage to warn about impending road cautions such as curves, dips, slow moving farm equipment, and other possible blind spot areas
- c. Solar project should consult with the county and the town to determine reasonable weight limit based on, in part, the number of culverts in place for streams and drainage. Many road surfaces above culverts are in poor condition now and not able to sustain a substantial increase of usage by the construction vehicles.

Comment #5:

The solar project provides funding to the town for different phases of the project leading up to construction. The funds are obtained through a process that does easily make residents aware of the funding or the funding's applicability to individual property owners. For the town, the funds can be used to intervene and obtain support for evaluation of the Article 10 documents. Conquest receives approximately \$100k for the current phase of the project. Other funds are dispersed amongst requesters until allocation of the total funds are exhausted (I believe this to be around \$200k)

The current intervening fund amount is inadequate for the town because it is reasonable to expect that most of the funds will be used for legal and analyst resources to adequately review the Article 10 documents on behalf of the town. Ample funding should be provided to the town (or with some method to residents) that provides the town ability to address needs of individual residents, such as for adjacent property owners. Adjacent property owners should be provided the ability to obtain services or material that helps them protect and mitigate negative impacts that will occur by construction and operation of the solar project. For example, since learning in the summer 2020 of the pending solar project, we re-surveyed our property, planted several hundred tree seedlings along approximately 1500 ft of our property line, and purchased tree tubes to promote

growth and protection of the seedlings. Additionally, we are planting more tree seedlings this Spring. The total cost for taking this proactive approach was nearly \$3,500, not including our time to prepare the land and plant the trees.

It is also important to note that an indirect impact to our land is that by choosing to prepare our land for the future for the sole purpose of mitigating negative impacts from solar, we lose approximately 2.5 acres of corn/soybean crop yield due to trees being planted.

Conclusion:

The solar project siting approval should be contingent on the following:

1. The solar project should provide funding to support individual property owners who are adjacent to the solar sites for the purpose of mitigating negative impacts (e.g., surveys, landscaping) as reasonably determined by the property owner.
2. The solar project should actively consult with stakeholders called out in the Article 10 documents to identify additional funding for resources to work on behalf of the town in areas such as construction management, mitigation enforcement, local law/regulation enforcement, and issue resolution.

Comment #6:

The Article 10 documents provide a comprehensive approach to specify a significant amount of design activity and features that the project feels will meet the needs to prevent safety, environmental, and community and adjacent property negative impacts. As the project progresses through construction to operation, it is important that design features or construction methods, that do not meet the intended results, have an effective process to rectify the issue and to address any possible liability throughout the life of the project.

Examples of potential issues that come to mind include negative environmental impacts from water runoffs, existing glare or lighting that was supposed to be mitigated, ineffective visual impact mitigation due to landscaping or trees dying off, and the possible risks from proximity and operation of battery storage facilities.

Conclusion:

Approval of the solar project siting should be contingent on the following:

1. The solar project be responsible for rectifying design, construction, and operation issues throughout the life of the project that do not fulfill the requirements or intention the Article 10 documents.
2. An escrow and/or insurance policy be in place by both the project and participating property owners to ensure adverse impacts from the project are adequately covered and funded for resolution.

In closing, please consider the comments while evaluating for approval of the solar project for proposed scope and design, solar site selection, and timeline.

Respectfully Submitted,
Robert Vogel