

**Response to Comments on Preliminary Scoping
Statement Pursuant to Article 10
of the New York State Public Service Law**

East Point Energy Center
Town of Sharon, Schoharie County, New York

Case No.: 17-F-0599

Applicant:
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November 2018

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Via Electronic Delivery

November 14, 2018

Hon. Kathleen H. Burgess, Secretary
New York State Board on Electric Generation
Siting and the Environment
Three Empire State Plaza
Albany, NY 12223

Re: Case 17-F-0599 – Application of East Point Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Electric Generating Facility Located in the Town of Sharon, Schoharie County.

Dear Secretary Burgess:

East Point Energy Center, LLC (“East Point”) is seeking authority from the New York State Board on Electric Generation Siting and the Environment (“Siting Board”) to construct a 50-megawatt (MW) photovoltaic solar major electric generating facility in the Town of Sharon, Schoharie County, New York (the “Facility”) pursuant to Article 10 of the Public Service Law (“PSL”) and the Siting Board’s rules (16 NYCRR Part 1000 *et seq.*).

East Point filed its Preliminary Scoping Statement (“PSS”) on September 28, 2018. Comments on the PSS were due October 25, 2018. Pursuant to 16 NYCRR § 1000.5, East Point hereby timely files its response to comments received on the PSS. This response is being served on the individuals listed in Section 1000.5(c) of the Siting Board’s rules in the same manner prescribed for service of the PSS. East Point will also post a copy of its reply comments on the Facility website (www.eastpointenergycenter.com/).

East Point looks forward to working with interested parties and stakeholders during the pre-application phase of this process. Please contact me if you have any questions regarding this filing.

Respectfully submitted,

READ AND LANIADO, LLP

By: /s/
Sam M. Laniado
Co-Counsel for East Point Energy Center,
LLC

Attachment


cc: William M. Flynn, Esq.
Harris Beach PPLC
Co- Counsel for High River Energy Center, LLC
Graham Jesmer, Esq.
Andrew Davis, DPS

Case Number 17-F-0599

Application of East Point Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the Public Service Law for Construction of a Solar Generating Facility Located in the Town of Sharon, Schoharie County.

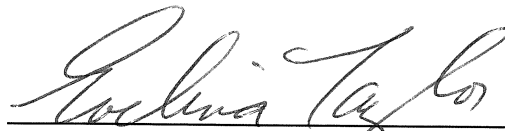
AFFIDAVIT OF SERVICE

I, Frank Lipari of Plan & Print Systems, Inc, in Syracuse, New York, caused the document entitled East Point Energy Center, LLC (East Point Energy Center) Response to Comments on East Point Energy Center Preliminary Scoping Statement for the East Point Energy Center proposed in Schoharie County, New York, to be served, on November 14, 2018, via UPS to the attached list of recipients.



Frank Lipari

Sworn to me before this 14th day of November, 2018.



Notary Public

EVELINA TAYLOR
NOTARY PUBLIC STATE OF NEW YORK
ONONDAGA
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COMM. EXP. 05/29/2022

East Point Energy Center, LLC

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Comment Number	Agency	Agency Comment Number	Topic	PSS Document Reference	Agency Comment	Response
1	NYSDEC	General-1	GIS Data	N/A	Shapefiles suitable for use in GIS software via ESRI's ArcGIS suite of software (e.g. ArcMap) containing all applicable Project and survey components as described in NYSDEC's Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects (June 2016) should be submitted to NYSDEC as soon as possible. Shapefiles should depict the location of all Facility components including (separately): extent of current Facility site; panel array locations; new access and maintenance roads; existing roads that will be widened/altere;d; electric collection and transmission lines (specified above ground or underground); security fence lines; laydown and storage area(s); substation(s); temporary and permanent meteorological tower(s), if applicable; any other temporary or permanent infrastructure constructed in support of the Facility; and all areas to be cleared around panels, access roads, electric lines, and all other Facility components.	The Applicant will provide shapefiles using the NYSDEC's Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects (June 2016) as guidance. The Project layout is still under development and applicable Project shapefiles will be provided when finalized.
2	NYSDEC	General-2	GIS Data	N/A	Additionally, shapefiles showing all wildlife and habitat survey locations as applicable and labeled by year, including (separately): breeding bird survey transects/points; winter raptor survey locations and driving routes; viewsheds for winter raptor observation points, indicating the area visible from each point; bat acoustic monitoring and/or mist net locations; amphibian survey locations; all delineated wetland boundaries and adjacent areas; stream crossings; and any other survey information pertinent to the Facility. The Applicant should update shapefiles depicting preliminary Project component/layout and resubmit to NYSDEC as needed and in a timely manner during Project development and review. Draft reports of all wildlife, habitat, and wetland surveys shall be submitted to NYSDEC as soon as possible after they are prepared. These reports should include maps and shapefiles provided confidentially to NYSDEC depicting the location(s), observation date(s), species, and behavior(s) of all T&E and SSC individuals observed during pre-construction surveys and incidentally within and adjacent to the Facility.	The Applicant will provide applicable shapefiles to accompany any applicable draft reports when finalized.
3	NYSDEC	Exhibit 15-1	Public Health and Safety	Section 3.15	Proposed Study (m) indicates that "the Applicant will perform receptor surveys using publicly available information and field visits to determine full-time and part-time residences within 30 dBA of the Project." This statement should be revised. As written, it is ambiguous because A-weighted decibels are a measure of Sound Pressure Level and not of distance, nor does the statement identify the relationship of the 30 dBA with the ambient dBA (e.g. combined sound levels or rise over ambient).	The Applicant intends to identify full-time and part-time residences immediately adjacent to the Project Area to document whether there will be operational sound impacts to such residences as a result of the Project that exceed applicable state or local standards.
4	NYSDEC	Exhibit 20-1	Cultural Resources	Section 3.20	This section should discuss the potential for Phase III investigations (Data Recovery). It should also include Tribal consultation procedures, which should be implemented at the start of cultural resource investigations, at or before the time that NYS OPRHP is consulted.	<u>Phase III Data Recovery</u> : At present, there are no NRHP-eligible archaeological sites identified within the Project's area of potential effect (APE). Should any NRHP-eligible archaeological sites be identified in the APE as a result of the Phase I identification survey, and if necessary, a Phase II NRHP eligibility study, and the site cannot be avoided through modification of Project design, then a Phase III Data Recovery Plan will be prepared by the Applicant in consultation with the NYS OPRHP and submitted as part of the Compliance Filing. The Phase III Data Recovery would be conducted in advance of any ground-disturbing activities and would serve to mitigate impacts caused by Project development to any NRHP-eligible archaeological site(s).

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						<p><u>Native American Consultation:</u> The Applicant will initiate consultation with Native American Tribes concurrent with consultation with the NYS OPRHP. Based on the Project's geographical location and guidance from the NYS OPRHP and the Indian Nations of New York State, the Applicant will consult with the following Federally Recognized Tribes: Delaware Nation, Delaware Tribe of Indians, Mohican Nation Stockbridge-Munsee Band (Stockbridge Munsee Community), and the St. Regis Mohawk Tribe. The Tribal consultation procedures will include preparing correspondence to each Tribal Historic Preservation Office (THPO) that describes the Project's location and design. The Applicant will request comments from each THPO on any potential effects from the Project on Tribal resources or Tribal lands.</p>
5	NYSDEC	Exhibit 22(a)-1	Terrestrial Ecology and Wetlands	Section 3.22	<p>The Application should contain maps, information on, and a description of the plant communities within the Facility, electric interconnection lines, and adjacent properties. Maps, shapefiles and descriptions should show approximate locations and extent of identified plant communities, including areas of invasive species concentrations, overlaid with areas of proposed disturbance, and be based on results of observations and field verification during on-site surveys, roadside surveys from adjacent parcels, and review of recent aerial imagery and NLCD information. A list of all plant species observed during on-site field investigations and incidentally while in the Facility should be provided, including the date(s) each species was observed.</p>	<p>The Application will include maps, information on, and a description of, plant communities within the Project Area, electric interconnection lines, and adjacent properties (based upon roadside surveys). These maps, shapefiles, and descriptions will include the mentioned invasive and native plant community information and will be overlaid with areas of proposed disturbance. The Application will also include a list of all plant species observed on-site in the Project Area during field investigations, including date(s) each species was observed.</p>
6	NYSDEC	Exhibit 22(b)-1	Terrestrial Ecology and Wetlands	Section 3.22	<p>The Application should contain results of pre-construction surveys, including the location(s) of areas of invasive species within the Facility, and maps and shapefiles of any concentration areas that may contain Project components. This information will assist in appropriate siting of Project components in areas that will not facilitate the spread of invasive species. An Invasive Species Management Plan should address measures to prevent the introduction of and control the spread of all the species listed in 6 NYCRR Part 575, including all the terrestrial and aquatic species listed at http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf. Additional species not included on this list (i.e. reed canary grass and wild parsnip) may also warrant specific management and control measures, depending on current populations of such species within and nearby the Facility. Specifically, the plan should apply to all prohibited and regulated invasive species and include the following:</p> <ol style="list-style-type: none"> i. A summary of the survey methods to be used to identify and mark existing non-native invasive species within the Facility site (i.e. baseline survey), including the transmission line corridor (if applicable). A field verification of the location(s) of invasive species conducted during the growing season immediately prior (within at least six months) of the start of vegetation or ground disturbance activities; ii. An action plan for pre-construction management of non-native invasive species, including threshold for action. Specific methods to be used to ensure that packing material, imported fill and fill leaving the Facility site 	<p>An Invasive Species Management Plan (the Plan) will be prepared and included in the Application. Invasive species addressed in the Plan will be those that were both identified in the invasive species concentration areas during the delineation effort as well as listed in 6 NYCRR Part 575 within the Project Area. The Plan will include measures to help prevent the introduction of, and control the spread of, these species. Management and control measures included in the Plan will vary depending on invasive species type listed within the identified concentration area during the field efforts. Items referenced in parts i. through xi. of the comment will be addressed as determined necessary by NYCRR § 1001.22(p).</p>

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					<p>will be free of non-native invasive species material, seeds, and parts to the extent practicable;</p> <p>iii. Specification on how fill materials to be placed within the Facility site will be free of non-native invasive species material, seeds, and parts, by source inspection or other method, or only used within areas already containing those specific non-native invasive plant and invertebrate species infestation;</p> <p>iv. Detailed description of specific measures that will be used to prevent the introduction, spread, and proliferation of all non-native invasive species due to the implementation of the Facility's grading, erosion and sediment control plan;</p> <p>v. Details of procedures for preventing the spread of invasive invertebrates and diseases, and a discussion of how the Applicant will comply with the NYS quarantine and protective zones, where applicable;</p> <p>vi. Detailed plans describing how appropriate measures will be implemented to ensure that equipment and personnel arrive at and depart from the Facility site clean and free of all non-native invasive species material, seeds, and parts. The protocol for inspection of equipment arriving at the Facility site should be provided in the Application;</p> <p>vii. A detailed description of cleaning procedures for removing non-native invasive species material, seeds, and parts from equipment and personnel, and properly disposing of materials known to be or suspected of being infested;</p> <p>viii. Detailed description of the BMPs or procedures that will be implemented, and the education measures that will be used to educate workers;</p> <p>ix. Detailed description of a minimum of 5-year post-construction monitoring and corrective action plan, to achieve the goal of no new invasive species in the Facility area and no new locations of exiting invasive species in the Facility area, and survey measures and procedures for revising the Invasive Species Control Plan in the event that the goals of the initial plan are not met within a specified timeframe;</p> <p>x. Anticipated methods and procedures used to treat non-native invasive species that have been introduced or spread as a result of the construction, operation or maintenance of the Facility (based on comparisons against the baseline survey); and</p> <p>xi. Landscape re-vegetation plans, including specification of native seed mix to be used, as appropriate.</p>	
7	NYSDEC	Exhibit 22(c)-1	Terrestrial Ecology and Wetlands	Section 3.22	<p>The Application should contain a detailed description of the proposed measures that will be implemented to avoid, minimize, and mitigate for any temporary and permanent impacts to existing, non-invasive plant communities, particularly grasslands, interior forests, wetlands, shrublands, and young successional forests, as a result of the construction, operation and maintenance of the Facility. This should include measures to avoid and minimize impacts to vegetation such as co-locating linear project components, and constructing all panels, buildings, storage areas, and other structures in areas already developed or disturbed, to the maximum extent practicable. Post-construction vegetative restoration should include reseeded</p>	<p>The Applicant will include a discussion of avoidance, minimization, and mitigation efforts for any temporary and permanent impacts to existing non-invasive plant communities, in particular the communities mentioned, as a result of construction, operation and maintenance of the Project. Noted measures to avoid and minimize impacts will be included in this discussion. The alternatives analysis, to be submitted with the Application as Exhibit 9: Alternatives, will include a discussion of potential impacts to vegetation associated with alternatives</p>

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					disturbed areas with appropriate native seed mix or planting native woody species, as necessary, to recreate or enhance wildlife habitat. An alternatives analysis should be presented in Exhibit 9 (Alternatives), which includes a discussion of vegetative clearing, and the associated impacts under each of the alternatives analyzed.	considered, and information regarding why proposed alternatives were not selected.
8	NYSDEC	Exhibit 22(d)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include information on and a characterization of aquatic and terrestrial vegetation, wildlife and wildlife habitats that occur throughout the Facility, encompassing all areas that may be disturbed for construction of panels, roads and electric interconnection and transmission. This section should include an identification and description of plant communities, plant species and wildlife habitat. Such descriptions should include field identification and verification of aquatic habitats, plant communities, and other wildlife habitat that could potentially support federally or NYS-listed T&E species, SSC, and SGCN as documented during on-site field investigations (e.g. ecological cover type assessments, habitat assessments, wildlife surveys, and wetland/stream delineations). USFWS, NYSDEC staff, and NHP database information should be used to determine if any bat hibernacula or maternity roosts are located within the study area. If hibernacula or roosts are identified within the Project area, or five miles from any Project component or boundary, the location and distance to each identified hibernaculum and roost should be provided separately and confidentially to NYSDEC.	The Application will contain the requested information on aquatic and terrestrial vegetation, wildlife, and wildlife habitats within the Project Area. The Application will also contain discussion of other habitat which could potentially support federally or NYS-listed T&E species, SSC, and SGCN within the Project Area. The Applicant will coordinate with the USFWS, NYSDEC Staff, and the NHP database to document known occurrences of bat species in the Study Area, and provide relevant, applicable information to NYSDEC.
9	NYSDEC	Exhibit 22(d)-2	Terrestrial Ecology and Wetlands	Section 3.22	A discussion of the extent, methodology and results of all avian, bat, amphibian, and other wildlife surveys conducted by the Applicant or its agents within or in the vicinity of the Facility should be provided in Exhibit 22(f). All draft reports should be provided to NYSDEC, USFWS and NYSDPS as soon as possible after they are prepared.	The Application will include the requested discussion for the indicated surveys conducted within the Project and Study Areas. The Applicant will continue to coordinate with applicable agencies to determine any or all surveys required for the Project. The Applicant will provide applicable draft reports as requested when finalized.
10	NYSDEC	Exhibit 22(d)-3	Terrestrial Ecology and Wetlands	Section 3.22	Information on amphibians and reptiles based on the New York State Amphibian & Reptile Atlas Project (Herp Atlas), database records obtained from NHP, NYSDEC and USFWS, assessments of suitable habitat within the Facility, and any field observations made on-site and in the vicinity of the Facility should be provided. To the extent that vernal pools and their functions (including the surrounding upland habitat) may be impacted by construction, operation or maintenance of the Facility, those features should be identified under appropriate seasonal conditions, and these impacts should be identified and assessed in the Application. Such impacts may require, in consultation with NYSDEC and NYSDPS, the development and implementation of site-specific surveys for amphibian and reptile species under appropriate seasonal conditions in order to fully quantify the level of impact from the Facility. The Applicant should submit to NYSDEC detailed location maps and ecological characterization data for all vernal pools located within 500 feet of all proposed areas of disturbance.	Information requested on amphibians and reptiles based on the New York State Amphibian & Reptile Atlas Project (Herp Atlas), database records obtained from NHP, NYSDEC and USFWS, assessments of suitable habitat within the Facility Area, and any field observations made on-site and in the vicinity of the Facility will be provided in the Application. The Applicant will provide detailed location maps and ecological characterization data for all vernal pools located within 500 feet of related disturbances on all Project parcels. Any part of the 500-foot survey area which falls outside of Project parcels will be estimated within 500 feet of the limits of disturbance. Impacts, if any, to vernal pools identified during the field survey as a result of the Project, will be identified and assessed in the Application.
11	NYSDEC	Exhibit 22(e)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should contain an inventory of and information on plant species and wildlife species (bird, mammal, herpetofauna) known or likely to occur in or near the Facility at some time during the year based on existing data available from the following sources: NHP; NYSDEC; USFWS; local bird/wildlife experts; Herp Atlas; Breeding Bird Atlas; USGS Breeding Bird Surveys; Christmas Bird Counts; Hawk Migration Association of North America; eBird; The Nature Conservancy surveys/reports; The Kingbird publication; county-based hunting and trapping records maintained by NYSDEC, and; any other publicly available source that may provide	The Applicant will utilize reasonably available public information, including consideration of the indicated data sources, to document an inventory and information on plant or wildlife species known or likely to occur in the Project Area.

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					relevant information regarding wildlife occurrences within or in the vicinity of the Facility and electric interconnection line. On-site field surveys (e.g., avian and bat surveys, amphibian surveys, ecological cover type assessments, habitat assessments, wetland delineations, etc.) and the availability of suitable habitat should also be used to identify species that could potentially occur within or in the vicinity of the Facility at some time during the year. The inventory should specify whether species were observed, known to occur in Facility site, or are predicted to occur based on habitat characteristics and historical records. Information on terrestrial invertebrates should be limited to a general discussion regarding the range of species likely to occur in the vicinity of the Facility.	
12	NYSDEC	Exhibit 22(f)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include a narrative analysis and associated mapping to explain and illustrate potential and expected construction and operational impacts to vegetative cover types, wildlife habitats (including a discussion of impacts from habitat fragmentation), wildlife concentration areas, travel corridors, if identified, and terrestrial and aquatic organisms.	The requested information will be included in the Application.
13	NYSDEC	Exhibit 22(f)-2	Terrestrial Ecology and Wetlands	Section 3.22	The Application should discuss all direct and indirect construction-related impacts that may occur to wildlife and wildlife habitat, including but not limited to incidental injury and mortality due to construction activity and vehicular movement, habitat disturbance and loss associated with vegetation clearing and earth-moving activities, and the displacement of wildlife from preferred habitat.	The Application will discuss potential construction-related direct and indirect impacts to reptiles, amphibians, mammal species, and avian species likely to occur within the Project Area, including any potential mitigation and avoidance measures that will be undertaken.
14	NYSDEC	Exhibit 22(f)-3	Terrestrial Ecology and Wetlands	Section 3.22	The Application should discuss all direct and indirect operational and maintenance impacts including, but not limited to, functional loss and degradation of habitat, forest and grassland fragmentation, and wildlife displacement. To the extent any documented wildlife travel corridors or concentration areas are identified within or in the vicinity of the Facility Site, direct and indirect impacts to such corridors and concentration areas and the species utilizing corridors or concentration areas, should be addressed.	The Application will discuss potential, operational and maintenance direct and indirect impacts related to reptiles, amphibians, mammal species, and avian species likely to occur within the Project Area, including any documented wildlife corridors or where concentrations are identified.
15	NYSDEC	Exhibit 22(f)-4	Terrestrial Ecology and Wetlands	Section 3.22	The Application should also include a discussion and assessment of potential short- and long-term impacts to plants, animals, and habitats that may result from the application of biocides, if any, during site preparation, construction, operations, or maintenance of the Facility. This should include consideration of impacts to trees, ground covers, and other vegetation planted as part of restoration, mitigation and habitat enhancement activities.	The use of herbicide application as a method of vegetation maintenance has not yet been determined for the Project. If herbicide application is determined necessary for the Project, however, the Application will include the requested information.
16	NYSDEC	Exhibit 22(f)-5	Terrestrial Ecology and Wetlands	Section 3.22	A summary impact table should be included that clearly quantifies anticipated temporary and permanent impacts associated with all Facility components in relation to wildlife habitats, identified concentration areas or travel corridors, and vegetation cover types, particularly grasslands, interior forests and young successional forests, if affected.	The requested table will be included in the Application as applicable.
17	NYSDEC	Exhibit 22(f)-6	Terrestrial Ecology and Wetlands	Section 3.22	The Application should discuss the Facility's location in the Mohawk River Valley Grassland Focus Area and any other identified concentration areas or migration corridors, as appropriate, and include a discussion of the potential cumulative impacts of the Facility on wildlife species and the habitats that support them with respect to the other photovoltaic solar energy projects or panels that are currently operating and proposed to be constructed at other sites nearby the Facility, in NYS, and at operating projects throughout the northeast. For the purposes of Exhibit 22(f), "proposed project" or "proposed panels" are defined as any project, or panels that are associated	The Application will discuss the Facility's location in the Mohawk River Valley Grassland Focus Area and any other identified concentration areas or migration corridors within the Study Area, and include a discussion of the potential impacts of the Project on wildlife species and the habitats that support them within the Study Area. However, it is beyond the Applicant's capabilities to acquire the requested information in order to assess the impacts resulting from other privately-owned solar

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					with a project, for which a PSS has been submitted to NYSDPS and a case number assigned under Article 10 of the PSL, or are part of a project that has completed or is currently undergoing the State Environmental Quality Review process, for which there is a publicly available Draft Environmental Impact Statement or Final Environmental Impact Statement document, as of the date of submission of the Application; "nearby" is defined as all operating or proposed solar energy projects that are located within 100 miles of the Facility, including those in other counties, states or provinces.	projects proposed by others on land not controlled by the Applicant. Furthermore, there is no assurance that information obtained from other projects has undergone the proper regulatory review. In addition, the requested studies are beyond the scope of the informational requirements in the Article 10 regulations. Therefore, the analysis will be limited to property under the Applicant's control (i.e., option, lease, or ownership).
18	NYSDEC	Exhibit 22(f)-7	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include wildlife and habitat impact analysis descriptions including an identification, evaluation, and assessment of direct and indirect Facility-related impacts to avian, bat and other wildlife species, particularly: federally and NYS-listed T&E species and their habitats; SSC and SGCN; wildlife concentration areas; migration corridors; and forest and grassland habitats. The NYSDEC Region 4 Wildlife Office should be contacted to obtain the most recent breeding, wintering, and habitat data for NYS-listed species. The USFWS Field Office in Cortland, New York should be contacted to obtain the most recent breeding, wintering, and habitat data for federally listed and protected species.	The Application will include the requested descriptions. Information from DEC Region 4 and the USFWS will be included to the extent it is timely received.
19	NYSDEC	Exhibit 22(f)-8	Terrestrial Ecology and Wetlands	Section 3.22	Avian and bat occupancy and usage of the Facility site should be compared with other proposed and existing solar energy projects located nearby the Facility and in NYS, and with operating projects throughout the northeast. Analyses should be based on a discussion and comparative analysis of the extent, methodology, and results of the pre-construction wildlife studies conducted for the Facility, and studies from other solar energy projects for which data are publicly available, as well as any additional information provided by NYSDEC and USFWS.	The Applicant will complete bat and avian analyses, which will be limited to property under the Applicant's control (i.e., option, lease, or ownership). It is not within the Applicant's capabilities to discuss the impacts of other existing or proposed privately-owned solar projects on land outside the Project Area that the Applicant does not control. As such, these analyses will not extend to comparison with other proposed and existing solar energy projects. Furthermore, there is no assurance that information obtained from other projects has undergone the proper regulatory review. In addition, the requested studies are beyond the scope of the informational requirements in the Article 10 regulations. The Applicant will discuss any bat or avian information timely provided by the NYSDEC and/or USFWS relevant to the Project Site for the analyses.
20	NYSDEC	Exhibit 22(f)-9	Terrestrial Ecology and Wetlands	Section 3.22	A cumulative impact analysis should be done to evaluate the actual and expected impacts from the construction, operation and maintenance of the Facility as they relate to other proposed and operating solar energy projects nearby the Facility and in NYS. This analysis should minimally include a discussion and/or calculations describing and showing items I through V in comment section 22(f).	Please see previous response. It is not within the Applicant's capabilities to discuss the impacts of other existing or proposed privately-owned solar projects on land outside the Project Area that the Applicant does not control. As such, the Applicant will complete an impact analysis for property under the Applicant's control and will not extend the comparison to include other proposed and existing solar energy projects. Items I-V in comment section 22(f) will be described in the analysis provided in the Application.
21	NYSDEC	Exhibit 22(f)-10	Terrestrial Ecology and Wetlands	Section 3.22	A literature review and impact analysis evaluating how the construction, operation and maintenance of the Facility will affect wintering and breeding grassland bird species, including an assessment of the potential population-level effects habitat loss is likely to have on grassland bird species at a regional scale, should also be included. All such analyses described in 22(f) should take into account the estimated impacts	In addition to site-specific field studies, a literature review of reasonably available public information will be utilized to assess impacts to wintering and breeding grassland bird species resulting from the construction, operation, and maintenance of the Project. Based upon the aforementioned literature review, the Application will include a discussion of the potential

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					associated with the overhead transmission line and related facilities to be constructed, if applicable.	population-level effects habitat loss is likely to have on grassland bird species at a regional scale due to the proposed Project.
22	NYSDEC	Exhibit 22(f)-11	Terrestrial Ecology and Wetlands	Section 3.22	Information associated with a proposed post-construction monitoring plan to be implemented to assess direct and indirect impacts of the Facility on wildlife species and their habitats should be included. The details of a full post-construction monitoring plan should be developed on a site-specific basis through discussions between NYSDEC, the Applicant, and USFWS (if federally-listed species may be impacted), and at a minimum specify the following: the expected and allowed level of take of each T&E species that may be impacted; survey monitoring methods, effort, duration, data reporting and compliance documentation; construction parameters; proposed adaptive management responses, if applicable, and; mitigation measures sufficient to ensure the Applicant comply with the substantive requirements of 6 NYCRR Part 182. A post-construction monitoring plan should be approved by NYSDEC and NYSDPS and finalized prior to the start of Project operation.	If it is determined that a “take” of a T&E species will be caused by the operation of the Project, a full post-construction monitoring plan will be developed prior to the start of construction and submitted in the Compliance Filing for approval.
23	NYSDEC	Exhibit 22(g)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should contain a detailed description of the impact avoidance and minimization efforts used in siting and developing the Facility, as they pertain to vegetation, wildlife, and wildlife habitat. The Facility design, construction controls, and operational measures that can be reasonably implemented to first avoid to the maximum extent practicable, then minimize, and mitigate for impacts to wildlife and wildlife habitat as a result of construction, operation and maintenance of the Facility should be described. If such impacts cannot be demonstrably avoided to the maximum extent practicable, the Applicant anticipates minimizing impacts associated with habitat loss, fragmentation, displacement and mortality, through careful site design, adhering to designated construction limits and seasonal restrictions, and adhering to other construction best management practices. A commitment to mitigate, in an appropriate and timely manner, for any demonstrably unavoidable impacts to listed T&E species should also be discussed.	The Application will include the description requested concerning impact avoidance and minimization efforts. The Application will address any unavoidable impact measures to minimize, including consideration of the indicated factors, and any unavoidable impacts that would otherwise result in mitigation requirements. The necessity for any mitigation measures will also be discussed in the Application.
24	NYSDEC	Exhibit 22(i)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include and describe the following: The determination of wetland boundaries during on-site field delineations should be made according to the three-parameter methodology described in the Corps Wetland Delineation Manual (Environmental Laboratory, 1987), and the appropriate Regional Supplement to the Corps of Engineers Wetland Delineation Manual. In addition, boundaries of freshwater wetlands regulated under Article 24 of the ECL should be delineated according to methods described in the New York State Freshwater Wetlands Delineation Manual (1995). All wetlands within 50 meters of a NYSDEC mapped wetland, regardless of size or connectivity, should be delineated and included in field mapping. These delineations should include all vernal pools and other similar wetlands regardless of the possible lack of hydrologic connectivity to waters of the United States. Vernal pools should be delineated in accordance with the appropriate Regional Supplement.	The Application will include the relevant information, as requested, in accordance with the United States Army Corps of Engineers (USACE) and NYSDEC manuals, as referenced. Delineated wetlands and stream data and characteristics will be included in the Wetland and Stream Delineation Report as an appendix to the Application and within Exhibits 22 and 23 of the Application.
25	NYSDEC	Exhibit 22(i)-2	Terrestrial Ecology and Wetlands	Section 3.22	Wetland boundaries should be defined in the field by sequentially numbered pink surveyor’s flagging marked “wetland delineation”, the locations of which should be documented using GPS technology with reported sub-meter accuracy. Wetlands identified by these methods will be referred to as “delineated wetlands”, and wetlands that are verified by the Corps and the NYSDEC will be referred to as “jurisdictional wetlands”. Jurisdictional determination is required to fully and accurately assess potential impacts to wetlands and adjacent areas.	Information will be included and referenced accordingly in the Application.

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26	NYSDEC	Exhibit 22(i)-3	Terrestrial Ecology and Wetlands	Section 3.22	On-site field delineations should consist of boundary flagging of all wetlands and 100-foot adjacent areas that occur within 500 feet of the limits of disturbance around all Facility components such as access roads, electric interconnection and transmission lines, panels and other components such as temporary and permanent meteorological tower(s), staging areas, O&M building(s), substation(s), etc. These delineation protocols should apply to all wetlands and vernal pools.	Delineation protocols for the Project will be described in the Application to include all flagging areas noted in NYSDEC Comment 25 above.
27	NYSDEC	Exhibit 22(i)-4	Terrestrial Ecology and Wetlands	Section 3.22	An estimation of the presence and extent of wetlands occurring in the Facility Area and located greater than 500 feet from the limits of disturbance around all Facility components, or are located within 500 feet of the limits of disturbance but are on parcels to which the Applicant does not have access, should be developed using the following: on-site observations; observations made from public roads and adjacent Facility parcels; interpretation of aerial imagery; analysis of topography; existing databases of hydric soils; other remote-sensing data as available, and; wetland and soils mapping maintained by NWI and NYSDEC. Wetlands identified in this way will be referred to as "predicted wetlands."	The Applicant will indicate wetlands occurring within the Project Area and located greater than 500 feet from the limits of disturbance and all Facility components. This inclusion, however, will be limited to land under control by the Applicant. Wetland estimation, using one or more of the indicated techniques, as applicable, for lands extending beyond the Applicant's control, will only occur for areas that are located within 500 feet of areas to be disturbed during construction of the Project. These wetlands will be referred to as "predicted wetlands" within the Application
28	NYSDEC	Exhibit 22(i)-5	Terrestrial Ecology and Wetlands	Section 3.22	All wetland boundaries should be keyed to the submissions described in Exhibit 11 (Preliminary Design Drawings). The interpolated boundaries shown on site plans should be differentiated from field delineated boundaries when displayed on maps, site plans, and shapefiles.	The requested information will be included in Exhibit 11: Preliminary Design Drawings, and depicted on accompanying maps, site plans, and shapefiles.
29	NYSDEC	Exhibit 22(i)-6	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include information indicating which delineated wetlands are likely NYS-regulated, including those that are part of wetland complexes that meet NYS-criteria for jurisdiction (e.g. 12.4 acres or larger, is of ULI and/or support listed species) but are not currently mapped. All NYS-regulated wetlands should be identified by NYSDEC's wetland identification number in addition to the code assigned by the Applicant during delineation. Investigation areas for wetland delineations may need to be extended to make these determinations. At a minimum, the desktop mapping approach described in Exhibit 22(i) should identify all wetlands that potentially meet NYS-criteria for jurisdiction.	The Application will include Information indicating which delineated wetlands are likely NYS-regulated, whether currently mapped or not. The Applicant will also work with the NYSDEC and USACE to determine final wetland jurisdiction and present in the Application any additional relevant information developed from these consultations.
30	NYSDEC	Exhibit 22(i)-7	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include maps and shapefiles showing the boundaries of all delineated wetlands, jurisdictional wetlands, predicted wetlands, and all corresponding adjacent areas within the entire Facility. Additional maps at a scale of 1":50' depicting all of the following should also be included in the Application: all Facility components; proposed grade changes; the limits of ground disturbance and vegetative clearing; and all field-delineated wetlands, predicted wetland boundaries, and 100-foot adjacent areas located within 500 feet of all areas to be disturbed by construction. Shapefiles depicting the same should be provided to NYSDEC.	The Application will include the requested maps and shapefiles, including additional listed maps at a scale of 1":50' or similar. Shapefiles depicting these maps will be provided to the NYSDEC by the Applicant when finalized.
31	NYSDEC	Exhibit 22(l)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include an analysis of the potential hydrologic connectivity of all wetlands within the Facility to offsite wetlands, including a summary of those wetlands anticipated to fall under NYSDEC jurisdiction (under Article 24 of the ECL) and Corps jurisdiction (under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act). Assessments of potential NYS wetlands jurisdiction should include both "mapped" and "unmapped wetlands" that meet NYSDEC's 12.4-acre size threshold (including any wetlands of any size separated by less than 50 meters which function as a unit in providing wetland benefits, pursuant to 6 NYCRR Part 664, or otherwise meet NYS criteria for jurisdiction (e.g. wetlands or vernal pools determined	The requested information and resource descriptions will be included in a wetland and waterbody delineation report to be prepared as an attachment to the Application, excluding the Significant Coastal Fish and Wildlife Habitat Areas designated by NYSDEC, as the Project is not located near or within the vicinity of any officially designated Significant Coastal Fish and Wildlife Habitat Areas. In addition, a jurisdictional determination will be requested from the USACE and NYSDEC to confirm jurisdictional status of field verified, mapped, and unmapped wetlands.

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					to be of ULI, pursuant to 6 NYCRR § 664.7(c)). A summary should be provided of off-site wetlands adjacent to the Facility and any disturbed areas that may be hydrologically or ecologically influenced or impacted by development of the Facility, including Significant Coastal Fish and Wildlife Habitat Areas designated by NYSDOS, and publicly owned lands, to determine their general characteristics and relationship, if any, to the delineated wetlands within the Facility. All information, including maps and shapefiles of delineated wetlands, should be provided to NYSDEC as soon as delineations are completed and before the Application is submitted, to allow for NYSDEC to determine the full extent of NYS wetland jurisdiction.	
32	NYSDEC	Exhibit 22(m)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include an identification and quantification of temporary and permanent impacts to, and any permanent conversions of wetlands and NYS-regulated 100-foot adjacent areas based on the proposed footprint of all Facility components and associated impact assumptions. This assessment should also include a description of applicable permanent forest conversion, if any, which will occur as a result of the construction or maintenance of the Facility. Such impacts should be summarized and presented in a table that identifies and calculates items I through V of comments Section 22(m).	The requested summary and table will be included in the Application.
33	NYSDEC	Exhibit 22(m)-2	Terrestrial Ecology and Wetlands	Section 3.22	Impacts to wetlands should also be presented on a separate set of site plan drawings at 1":50' scale, showing wetland and stream boundaries, permanent and temporary structures, stream crossings, roads, power interconnects, grade changes, and the limits of disturbance.	The requested information will be included in the Application on site plan drawings at a scale of 1":50' or similar
34	NYSDEC	Exhibit 22(n)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should include a discussion of all avoidance and minimization measures considered during site planning and design, and an indication of methods to be implemented to avoid wetland and stream impacts, including crossing methodology and a description of Facility construction and operation in relation to the standards established by ECL Articles 15 and 24. Direct impacts to wetlands and streams should be minimized by utilizing existing or narrow crossing locations wherever possible. Additional impact avoidance and minimization measures may include consideration of alternative siting or routing options, trenchless crossings (such as HDD or other special crossing techniques), equipment restrictions, herbicide use restrictions, and erosion and sedimentation control measures. Exhibit 23 (Water Resources and Aquatic Ecology) should contain further discussion of how potential impacts to streams will be evaluated, avoided, minimized, and mitigated. The Application's discussion of avoidance and minimization should be updated, if necessary, upon final verification of wetland boundaries and jurisdictional determinations. Final impact calculations to the 100-foot adjacent area of NYS-regulated wetlands and associated mitigation should be based on verified delineation boundaries for jurisdictional wetlands.	The Applicant will include a discussion of avoidance and minimization efforts considered and will indicate methods to be implemented to avoid wetland and stream impacts. This will include crossing methodology and a description of Facility construction and operation, relating to the standards established by ECL Articles 15 and 24. Additionally, the Applicant will consider each mentioned additional impact and avoidance minimization measure. Exhibit 23: Water Resources and Ecology will include further discussion of evaluation, avoidance, minimization, and mitigation of impacts to streams and wetlands. If necessary, this discussion will be updated upon verification of wetland boundaries and jurisdictional determinations, and final impact calculations will be based on verified delineation boundaries for jurisdictional wetlands.
35	NYSDEC	Exhibit 22(n)-2	Terrestrial Ecology and Wetlands	Section 3.22	Where impacts to wetlands are unavoidable, and have been minimized to the extent possible, the anticipated mitigation measures to be implemented to offset impacts to wetlands and NYS-regulated 100-foot adjacent areas should be discussed, including the use of reasonable alternative stream and wetland crossing methods.	The requested information will be included in the Application as applicable.
36	NYSDEC	Exhibit 22(n)-3	Terrestrial Ecology and Wetlands	Section 3.22	Pursuant to 6 NYCRR 663.5(g), a conceptual mitigation plan for impacts to NYS-regulated wetlands and adjacent areas should be provided to NYSDEC as soon as possible, preferably before the submission of an Application, and at a minimum, should meet provisions I through III in comments Section 22(n).	A conceptual mitigation plan will be included in the Application if required.

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37	NYSDEC	Exhibit 22(n)-4	Terrestrial Ecology and Wetlands	Section 3.22	Evaluation of mitigation options should occur during initial planning of the Facility. Off-site mitigation will only be considered if an analysis is provided showing that all options within the immediate vicinity were thoroughly evaluated and determined to not be feasible. In-lieu-fee does not meet the NYS requirements for mitigation. Alternative analyses should be based on the final verified delineation boundaries.	Please see prior response. Should a conceptual mitigation plan be required, the requested information will be included in the Application.
38	NYSDEC	Exhibit 22(n)-5	Terrestrial Ecology and Wetlands	Section 3.22	The Application should also describe the anticipated ECMP to be implemented during Facility construction, demonstrating adherence to all relevant permit conditions to protect wetlands, streams, and other waterbodies. The Facility's ECMP should include an Environmental Monitor(s) during construction and restoration activities on the Facility site, and a description of the Environmental Monitor's duties. The ECMP should clearly describe the locations of all staging areas, temporary spoil or woody debris stockpiles, "extra work" areas, and other places material or equipment may be placed on site. The limits of disturbance around all such areas should be clearly defined in plan maps, and physically marked in the field using orange construction fencing or other similar indicators. Plans to restore all temporary disturbances in regulated areas, including replanting trees in disturbed forested areas, should also be provided.	The Application will contain a general description of the Compliance Filing that will be submitted as part of the Article 10 process. The indicated elements will be addressed conceptually in the Application and finalized in the Compliance Filing. As an example, an erosion and sediment control plan (ESCP) will be prepared as part of the Stormwater Pollution Prevention Plan (SWPPP) for the Project. As part of the SWPPP, a monitor will be in place throughout the work period and during the restoration period in order to inspect and assess sedimentation risk and mitigate any unforeseen issues specific to the nature of the Project Area. Restoration plans for all temporary disturbances in regulated areas will also be included.
39	NYSDEC	Exhibit 22(n)-6	Terrestrial Ecology and Wetlands	Section 3.22	For each item identified in the table described in 22(m), the following should be provided: i. For each resource explain if the resource could reasonably be avoided; ii. Proposed site-specific actions to minimize impacts to resources that are not avoided; iii. Proposed site-specific actions to mitigate impacts that are not avoided; iv. Proposed appropriate compliance monitoring schedule to ensure mitigation is successful, including adaptive management actions to be implemented should the planned mitigation fail.	The requested information will be included in the Application as applicable.
40	NYSDEC	Exhibit 22(o)-1	Terrestrial Ecology and Wetlands	Section 3.22	The Application should contain information regarding the presence of federally and NYS-listed T&E species, SSC, and SGCN; and, a discussion of the Facility's potential to impact such species or their habitats should be provided as a summary impact table in the Application. This table should, at a minimum, contain items I through VIII in comments Section 22(o).	The requested table will be included in the Application.
41	NYSDEC	Exhibit 22(o)-2	Terrestrial Ecology and Wetlands	Section 3.22	Analysis of documented T&E species, SSC, and SGCN should be based on database records obtained from the NHP, other known records documented by NYSDEC, USFWS, and observation during on-site wildlife and habitat, ecological, and wetland surveys. If it is determined by the Applicant, NYSDEC, or USFWS that the construction or operation of the Facility is likely to result in a take of a listed species, including the modification of habitat on which a listed species depends, the Applicant will submit with the Application an avoidance, minimization and mitigation plan that demonstrates a net conservation benefit to the affected species as defined pursuant to 6 NYCRR Part 182.11, along with the informational requirements of an Incidental Take Permit as provided for in 6 NYCRR Part 182.11, including proposed actions to first avoid all impacts to listed species. The Application should include a discussion and analysis of information collected as part of pre-construction monitoring surveys at the	The analysis of the Project Area will consider the data sources indicated if the records and other information are timely provided by the listed agencies. If it is determined a "take" is required, an avoidance, minimization, and mitigation plan will be prepared in accordance with the requirements of 6 NYCRR Part 182. The Application will include a discussion and analysis of information collected as part of pre-construction monitoring surveys at the Project Area. See prior responses herein concerning the reasons why analysis of other solar projects is neither reasonable nor required.

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					Facility, surveys at existing photovoltaic solar energy projects in the northeast (if available), and information provided by NYS and federal agencies.	
42	NYSDEC	Exhibit 22(o)-3	Terrestrial Ecology and Wetlands	Section 3.22	If impacts are unavoidable, the Application should demonstrate that they are unavoidable and provide a clear and reasoned explanation as to why complete avoidance of impacts to each affected species is not practicable, how the proposed minimization actions will minimize impacts to the maximum extent practicable, and proposed mitigation actions where impacts cannot be avoided or secondly minimized. If such impacts cannot be demonstrably avoided to the maximum extent practicable, the minimization actions and mitigation measures to be implemented should: be developed in consultation with NYSDEC and USFWS (if federally-listed species may be impacted); result in a net conservation benefit to the target species; and require thorough post-construction monitoring that adequately measures the Facility's impact on the target species and evaluates effectiveness of measures implemented as minimization actions.	The requested information will be included in the Application as applicable.
43	NYSDEC	Exhibit 23(a)-1	Water Resources and Aquatic Ecology	Section 3.23	Spatial data on water wells is available for download via NYSDEC's website at: https://www.dec.ny.gov/lands/33317.html or may be accessed via the New York State GIS Clearinghouse at: http://gis.ny.gov/gisdata/inventories/details.cfm?DSID=1203 .	Understood.
44	NYSDEC	Exhibit 23(b)-1	Water Resources and Aquatic Ecology	Section 3.23	Surface water maps should include perennial, intermittent and ephemeral streams, and wetlands, and be based on data from NYSDEC, ESRI, USGS, NWI, and stream data collected during on-site surveys of water resources. Wetland and stream delineations should identify all surface waters (ponds, vernal pools, and ephemeral, intermittent, and perennial streams). These data should also be provided to NYSDEC as shapefiles as soon as possible after they are prepared, and in tabular format that can be cross referenced to the maps.	The requested information will be included in the Application. The Applicant will make reasonable efforts to provide final shapefiles to NYSDEC before the Application is filed.
45	NYSDEC	Exhibit 23(b)-2	Water Resources and Aquatic Ecology	Section 3.23	Every attempt should be made to avoid all impacts to surface waters, followed by a minimization of unavoidable impacts. Where impacts are unavoidable and have been minimized to the greatest extent practicable, mitigation measures should then be considered. Environmental impacts to be discussed and addressed should include thermal changes to waterbodies due to vegetative clearing, changes to in-stream structure and morphology, potential impacts to or taking of state-listed T&E, SSC and SGCN, and the effects of turbidity on nearby aquatic habitat.	The Application will include a list and evaluation of reasonable avoidance measures and the potential alternatives to avoid impacts to regulated wetlands and streams. Where impacts are deemed unavoidable, proposed measures to mitigate impacts to the maximum extent practicable will be discussed in the Application. Applicable potential environmental impacts, as required by Article 10, will also be evaluated in the Application.
46	NYSDEC	Exhibit 23(b)-3	Water Resources and Aquatic Ecology	Section 3.23	All new stream crossings or upgrades of old crossings that may be necessary should be designed for a 100-year storm event. Culvert placement specifications should be described and enumerated, detail the expected flow calculations, and demonstrate culvert capacity with BMP considerations for culvert placement. The feasibility of using trenchless stream crossings should be assessed for all streams proposed to be crossed. BMPs should be employed throughout the remainder of the year for all stream crossings.	Conceptual design information for any proposed culverts or upgrades to existing culverts for stream crossings will be provided in the Application. Alternatives for stream crossings will be addressed in the Application. BMPs will be utilized year-round for all stream crossings. Likewise, BMP procedures will be documented in the Project's Stormwater Pollution Prevention Plan (SWPPP), described in the Application and presented for final approval in the Compliance Filing.
47	NYSDEC	Exhibit 23(c)-1	Water Resources and Aquatic Ecology	Section 3.23	Enclosed is a copy of NYSDEC Division of Water's April 5, 2018 memorandum regarding "Solar Panel Construction Stormwater Permitting/SWPPP Guidance" The memo provides guidance and examples for two scenarios: first, where only erosion & sediment controls are required; second, where post-construction controls are required. This determination is based on criteria for spacing of solar panels, slope, construction of impervious surfaces, and other factors following Maryland's "Stormwater Design Guidance – Solar Panel Installations" which has been	The requested information will be included in the Application and the Maryland "Stormwater Design Guidance – Solar Panel Installations" will be considered as part of SWPPP development.

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					incorporated by reference. The Applicant should refer to the NYSDEC guidance in the SWPPP, specifically identifying how the criteria outlined by the Division of Water and the Maryland design guidance is met. The Application should discuss how the criteria are met in Section 23(c).	
48	Ag & Mkts	Section 2.3-1	Project & Study Area	Section 2.3	The proposed 50-megawatt Project (Facility Area) encompasses approximately 1,313 acres of land, 350 acres of which would be comprised for the solar energy center.	N/A
49	Ag & Mkts	Section 3.04-1	Existing Land Use & Project Planning	Section 3.04	The PSS states that the Project Area is located within Schoharie County Agricultural District #3 with land use consisting of a of mix pasture, hay fields, and cultivated crops. Figure 4 shows most of the land where the project will be constructed is designated as agricultural. The PSS also identifies the different soil types being affected. The land consists of All Areas of Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance and Not Prime Farmland. After reviewing the land in USDA Web Soil Survey, it appears that approximately half of the land proposed for the building of the solar panels is comprised of principally of Prime Farmland.	The Application will include mapping of the Project Area with the various farmland classifications listed in comment 49 and of mapped Agricultural Districts within the Project Study Area. The Application will also identify the farmland classifications located within the Project's proposed limit of disturbance.
50	Ag & Mkts	Section 3.04-2	Existing Land Use & Project Planning	Section 3.04	According to the U.S. Department of Agriculture, Prime Farmland soils have the best combination of physical and chemical characteristics that enable them to be among the most productive and valuable agriculture soils in the State. This land is best suited for food and fiber production. The PSS states that the application will also include discussions on how the project will avoid or otherwise minimize impacts. The Department recommends other alternatives be explored, including the protection of the active sod farms, and focus the development on other less valuable support lands.	As required by Article 10, discussion on how the Project will avoid or minimize to the maximum extent practicable the impacts to agricultural soils identified in the comment will be evaluated in the Application, Alternative arrangements within the Project Area will be assessed in Exhibit 9: Alternatives, including the indicated active sod farms.
51	Ag & Mkts	Section 3.04-3	Existing Land Use & Project Planning	Section 3.04	The Application should include the percent of farmland within a 5-mile radius that will be converted to nonagricultural use. Cumulative impacts from other future farmland conversions during the life of the Facility should be discussed in the Application, including trends in farmland conversion within a 5-mile radius over the last 20 years.	In accordance with 16 NYCRR §1001.4(f), (Exhibit 4: Land Use), the Applicant will provide a map of all publicly known proposed land uses within the Study Area, gleaned from interviews with state and local planning officials, from the public involvement process, or from other sources. The cumulative impact of these identified publicly known proposed land uses within the Study Area along with the Project on farmland will be discussed, as will farmland conversion trends over the past 20 years within the Study Area. It is not within the Applicant's capabilities to predict future farmland conversions during the life of the Project.
52	Ag & Mkts	Section 3.04-4	Existing Land Use & Project Planning	Section 3.04	The Applicant should take into consideration and discuss impacts of the project relative to the goals of the Schoharie County Farmland Protection Plan. The Department considers the conversion of agricultural land to a nonagricultural use for up to 20 year to be a permanent conversion. The Department is primarily concerned with the percent of agricultural land in the project area that is being converted to nonagricultural use and the impact on the agricultural viability in the Facility Area. The Applicant should assess the cumulative impact of the Facility Area and other conversions in the area over the useful life of the project. The Applicant should also discuss the impact of the project on agricultural viability in the area over the next 20 years.	See response to comment number 51 above. The Applicant will consider agricultural impacts relative to the goals of the Schoharie County Farmland Protection Plan, the duration of the Project, and agricultural viability in the Project's Study Area.
53	Ag & Mkts	Section 3.09-1	Alternatives	Section 3.09	Notably absent are any indications that other suitable sites including forested nonresidential or commercial properties were evaluated. As noted above, half of the land included in this project is comprised of Prime Farmland Soils and constitutes the most productive agricultural land.	Given that the Applicant proposes to operate a private facility, the identification and description of applicable, reasonable, and available alternative location sites for the proposed Project, if any, will be limited to sites under option to the Applicant for the

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						Project, as authorized by 16 NYCRR § 1001.9(a) and selected by NYSEDA from which to purchase renewable energy credits.
54	Ag & Mkts	Section 3.09-2	Alternatives	Section 3.09	The Application should include a discussion of alternative layouts using nonagricultural land within the area under lease. The Application should also include a discussion of the search for and attempts to lease nonagricultural land for the Facility. The Department strongly urges the Applicant to explore alternative sites which are not flat, productive, well drained farmland comprised of Prime Farmland soil or Farmland of Statewide Importance.	See response to comment number 53 above. A description and evaluation of reasonable alternatives regarding general arrangement and design will be included in the Application, including the use of nonagricultural land that is under lease in the Project Area, as applicable.
55	Ag & Mkts	Section 3.22-1	Terrestrial Ecology & Wetlands	Section 3.22	In this section under the Local heading, they discuss that more than half of the land in the project area consists of primarily active agricultural land (61.5%). It is stated that in the Application they will include a discussion of potential impacts on agricultural resources. Also, an evaluation of proposed agricultural restoration techniques due to disturbance would be presented in the Application.	A detailed description of proposed agricultural restoration techniques to be utilized during site restoration and decommissioning will be provided in Exhibit 29: Site Restoration and Decommissioning.
56	Ag & Mkts	Section 3.22-2	Terrestrial Ecology & Wetlands	Section 3.22	The Application should include the percent of farmland within a 5-mile radius that will be converted to nonagricultural use. Cumulative impacts from other future farmland conversions during the life of the Facility should be discussed in the Application, including trends in farmland conversion within a 5-mile radius over the last 20 years. The Department recommends that the Applicant follow the Department Guidelines, as recommended above.	See response to comment number 51 above. A discussion of consistency, to the maximum extent practicable, with the New York State Department of Agriculture and Markets guidance document entitled <i>Guidelines for Agricultural Mitigation for Solar Energy Projects</i> (most recent version at time of Application filing) will be included in the Application.
57	Ag & Mkts	Section 3.34-1	Electric Interconnection	Section 3.34	While this Section states that the Applicant prefers to use underground cabling for electrical connection, overhead cables may be used if requested by landowners or where underground is prohibited. In the event there are any overhead collection or transmission pole structures in agriculture fields, the Department will require that they be self-supporting, with no guy wires being located in agricultural land.	Electric collection lines will be primarily underground. The use of overhead cables for the Project, if necessary, will be sited outside of agriculture fields to the maximum extent practicable. Any type of overhead collection considered for the Project will be discussed and assessed in the Application.
58	Ag & Mkts	General-1	Agricultural Impact	N/A	In conclusion, the Department is concerned about the long-term viability of agriculture in the Facility Area due to the agricultural land and farmland soils being converted to a nonagricultural use. The Applicant should assess the cumulative impact of the Facility Area and other conversions in the area over the useful life of the project. The Applicant then needs to determine whether any reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact on agriculture to sustain a viable farm enterprise or enterprises within the Facility Area.	See responses to comment numbers 51 and 53 above.
59	DPS	General-1	Informational Requirements	N/A	In addition to the specific comments on many topics below, DPS Staff advises that the Application must also contain all of the informational requirements included in 16 NYCRR §1001.	Understood.
60	DPS	General-2	Case Number	N/A	Staff advises that the Applicant prominently identify the case number in future notices and newspaper publications.	Understood.
61	DPS	Cover letter-1	Cover Letter/Proof of Service	N/A	As part of the Public Involvement Program (PIP) Plan, the Applicant stated that it would notify the stakeholder list, including host and adjacent landowners and other parties identified through outreach efforts, when the PSS was filed. The September 28, 2018 Affidavit of Service included four contacts identified as "landowner" and a list of email recipients. It is unclear whether these four landowners make up the entirety of host and adjacent landowners for this project or whether there are additional landowners within the Facility and Study areas that should be included in the stakeholder list. In addition, it is unclear whether the email recipients are landowners or members of the public that requested to be added to the stakeholder list.	The four contacts identified as "landowner" in the September 28, 2018 Affidavit of Service consist of landowners near the Project Area that signed up to be stakeholders on the Project website or at an Open House. At the request of the Presiding Examiner, additional notices were sent to all mailing addresses within the 2-mile Study Area, inclusive of the host and adjacent landowners on October 11, 2018. An updated Stakeholder List including the host and adjacent property owners was attached to the Affidavit of Service for the second mailing and filed with the Secretary. There were also email recipients of the Notice,

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						who are landowners or members of the public that have requested to be added to the Stakeholder List.
62	DPS	Cover letter-2	Cover Letter/Proof of Service	N/A	The PSS "Stakeholder List" does not include Schoharie County Dept. of Transportation. DPS advises that County Route 34 traverses the Project Area and is likely to provide access opportunities to Facilities Site locations. The Stakeholder list should also include Montgomery County as an adjacent municipality. Both entities should have been provided notice of the PSS filing.	Both the Schoharie County Dept. of Transportation and Montgomery County will be added to the Stakeholder List.
63	DPS	Cover letter-3	Cover Letter/Proof of Service	N/A	The stakeholder list should be updated to eliminate outdated contacts (e.g. Eric Schneiderman) and identify a representative for agencies/companies where a contact is not listed (e.g. NTIA, Verizon).	The stakeholder list will be updated to remove outdated contacts, and will provide a contact for agencies/companies, as available.
64	DPS	Section 2.4-1	Summary of Pre-Application Activities	Section 2.4	The PIP Plan is not available on the project website as stated in the summary.	The PIP plan was provided on the Project website: https://www.eastpointenergycenter.com/wp-content/uploads/sites/3/2018/02/East_Point_Energy_Center_PIP-Plan.pdf . The Applicant will update the website so that the PIP Plan is easier to locate.
65	DPS	Exhibit 1-1	General Requirements	Section 3.0	DPS Staff notes that this section should include the name, address and e-mail of the local representative identified in the PIP Plan. This information should be provided wherever the public contact information is noted throughout the filing, including the public notices.	Since the filing of the PIP Plan, the Project's local representative has changed and is now Mr. Kris Scornavacca, whose contact information is listed in the PSS.
66	DPS	Exhibit 2-1	Overview and Public Involvement Summary	Section 3.02	The PSS notes that an open house was held on August 30, 2018. The Applicant should provide additional details such as: when the informational flyers were mailed, when notification was placed in the newspaper, how many people attended, etc. Information on the types of comments that were received and whether the Applicant took any follow-up actions should be included in the meeting log and referenced in this section.	The requested information will be provided with the Application.
67	DPS	Exhibit 2-2	Overview and Public Involvement Summary	Section 3.02	The PSS states at page 10 that notification of filing the PSS was published in "The Schoharie News," as noted in the PIP Plan. Review of the Affidavits of Publication provided in the PSS include citations to the Cobleskill "Times Journal" and "The Mountain Eagle" however there is no such showing for "The Schoharie News". Please clarify the PSS information regarding publication of notifications.	The notice was published in the Times Journal and in the Mountain Eagle. The "Mountain Eagle" and the "Schoharie News" are the same news outlet. This will be clarified in the Application.
68	DPS	Exhibit 2-3	Overview and Public Involvement Summary	Section 3.02	DPS Staff recommends that the Applicant describe public involvement activities regarding the filing of the Project Application. At a minimum, the Applicant should mail notice of the Application submittal to a project mailing list comprised of the updated stakeholders list, including host and adjacent landowners, and additional addresses received through public outreach. The notice will include information on the project generally and the Article 10 Application specifically. A copy of the mailing list and documentation indicating the dates and mailings that were made should be provided to the Secretary. The Application should include the updated stakeholder list.	The notice for the Application will be prepared and served accordingly. The requested certificate of service will also be filed with the Secretary.
69	DPS	Exhibit 2-4	Overview and Public Involvement Summary	Section 3.02	Item "C" in the Proposed Studies section on page 11 notes that the Applicant will provide a summary of the changes made to the proposal as a result of the PIP Plan. The Applicant should clarify that it will summarize changes that result from the implementation of the PIP Plan, i.e. resulting from outreach efforts.	The requested information will be provided in the Application.
70	DPS	Exhibit 4-1	Land Use	Section 3.04	Discussion of "vacant land": a. determinations of actual uses of land classified as "vacant land" as described at PSS page 16 should include "participating landowners" as well as adjoining and nearby landowners, to the extent such land use information can be determined; b. Study of "vacant land" use should include identification of any	The Applicant will determine actual land uses for "vacant land," to the extent it can be determined, and will include identification of any forest stands providing alternative crops. If

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					forest stands providing alternative crops, such as maple syrup production. c. Section 3.04(i) (p. 20): If any off-site staging and/ or storage areas will be utilized for project construction, include as part of the qualitative assessment of the compatibility of the facility with existing, proposed and allowed land-uses.	any offsite staging and/or storage areas will be used, the requested qualitative assessment will be provided.
71	DPS	Exhibit 4-2	Land Use	Section 3.04	DPS requests that in addition to descriptions and analysis of “community character” (PSS pages 17 and page 21) that a photographic representation of the project area be included to depict existing characteristics of the Project and surrounding area setting.	Representative photographs of the Project Area will be included as part of the Visual Impact Assessment (VIA) in Exhibit 24: Visual Impacts and will also be included in Exhibit 4: Land Use, as requested.
72	DPS	Exhibit 4-3	Land Use	Section 3.04	Discussion and analysis of Project conformance with comprehensive land use plans should be expanded to include the “Corridor Management Plan” for the Route 20 Scenic Byway.	The “Corridor Management Plan” will be evaluated, as applicable, in the Application.
73	DPS	Exhibit 4-4	Land Use	Section 3.04	Review of OPRHP trails information indicates that there are snowmobile trails traversing the Project Area. The Application should address compatibility of Project development with continued use of snowmobile trails, and potential mitigation for any incompatibility due to site access restrictions, perimeter fence installations, etc.	The Application will discuss recreational uses, including snowmobile trails, which may be affected by the Project.
74	DPS	Exhibit 9-1	Alternatives	Section 3.09	DPS advises that Section 3.09(c) “description of reasonable alternatives” to the Proposed Facility at the Proposed Location, warrants additional consideration of alternative facilities arrangements: a. Consider alternative arrangement and design options that would enable some continued agricultural use(s) at the site, including grazing or crop production;	Alternatives arrangements will be considered as part of Exhibit 9: Alternatives of the Application and arrangements/design options that would enable some continued agricultural use will be considered.
75	DPS	Exhibit 9-2	Alternatives	Section 3.09	DPS advises that Section 3.09(c) “description of reasonable alternatives” to the Proposed Facility at the Proposed Location, warrants additional consideration of alternative facilities arrangements: b. DPS requests that developer provide, as part of its response to these PSS comments, a Preliminary Facilities Arrangement including potential locations of solar panel arrays, location of inverters, and locations of electrical collection lines; to advance identification of specific alternative arrangements that may be available.	The Applicant is currently developing a Preliminary Facilities Arrangement and anticipates being able to provide this during the stipulations process to the negotiating parties.
76	DPS	Exhibit 9-3	Alternatives	Section 3.09	DPS advises that Section 3.09(c) “description of reasonable alternatives” to the Proposed Facility at the Proposed Location, warrants additional consideration of alternative facilities arrangements: c. Consider arrangement of inverters away from site property lines to reduce noise levels at adjoining parcel;	The Applicant will consider arrangement of inverters away from site property lines.
77	DPS	Exhibit 9-4	Alternatives	Section 3.09	DPS advises that Section 3.09(c) “description of reasonable alternatives” to the Proposed Facility at the Proposed Location, warrants additional consideration of alternative facilities arrangements: d. Develop alternative perimeter fencing designs that would minimize contrasts with adjacent land uses and visual character; residential locations, and views from the Route 20 Scenic Byway, should be considered.	The Applicant will consider these alternative fencing arrangements.
78	DPS	Exhibit 10-1	Consistency With Energy Planning Objectives	Section 3.10	In both section (a) and (g) the applicant references the most recent State Energy Plan, dated 2015. Staff advises that a new State Energy Plan will be released in 2019. Depending on the timing of the Article 10 application submission, these sections may require updating.	Understood.
79	DPS	Exhibit 11-1	Preliminary Design Drawings	Section 3.11	DPS requests that the Applicant provide four, full size copies of the preliminary design drawing set (utilizing a common engineering scale) at the time of Application submittal.	Four full size copies will be provided to DPS at the time of Application submittal.
80	DPS	Exhibit 11-2	Preliminary Design Drawings	Section 3.11	DPS Staff recommends that the Applicant provide a completed DPS Attachment 1, Maps Sizes and Scales sheet, in the response to PSS comments, regarding approximations of drawing scales to be used for Application content. This attachment	As the Applicant is still in the process of developing a solar array layout and scoping studies to be included in the Application, it is not possible to provide the drawing scales and number of sheets

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					contains a list of typical solar farm drawings and includes headings for anticipated corresponding extent limits, scales, and proposed drawing paper sizes.	in the instant response. The Applicant will make reasonable efforts to provide this information to DPS Staff during the stipulation process.
81	DPS	Exhibit 11-3	Preliminary Design Drawings	Section 3.11	DPS advises that the following be added to the list (1001.11(a) on page 40) of structures and features to be included on the site plans: the number of circuits per proposed collection system route, existing Sharon Substation and Sharon-Marshville 69 kV transmission line and any known existing transmission utilities and associated rights-of-way within the Project area and laydown, staging, and equipment storage areas with associated access, setbacks, and parking. Also, the site plans should provide indication of property lines and any general setbacks.	Requested information will be included on the site plans and submitted in the Application.
82	DPS	Exhibit 11-4	Preliminary Design Drawings	Section 3.11	Applicable standards and codes listed on page 40 should also include the American Concrete Institute (ACI) and the Building Code of New York State.	The requested information will be provided in the Application.
83	DPS	Exhibit 11-5	Preliminary Design Drawings	Section 3.11	Discussion at section 11(e) should also address the height of proposed lighting fixtures and standards.	The requested information will be provided in the Application.
84	DPS	Exhibit 11-6	Preliminary Design Drawings	Section 3.11	The Application should address additional details in sections 11(f) and (g) (plans and exterior elevation details), including design and architectural drawings of solar panel configurations, perimeter fencing options, access road gates and identification signs, including references to any local design requirements or standards that may be applicable.	The requested information will be provided in the Application.
85	DPS	Exhibit 11-7	Preliminary Design Drawings	Section 3.11	DPS advises that the following should be incorporated in detail drawings (related to requirements of §1001.1(g)) for proposed overhead lines: a. elevation plans for overhead facilities (collection and transmission lines) including height above grade; b. structure layouts; c. clearing width limits for construction and operation of the Facility; d. permanent ROW widths; e. average span lengths for each proposed layout; and f. structure separation requirements (for installations containing more than one pole, etc.) for all single and multiple-circuit layouts.	The applicable information requested will be included on site plan drawings submitted with the Application.
86	DPS	Exhibit 11-8	Preliminary Design Drawings	Section 3.11	Regarding underground collection line installation details related to §1001.11(g) (for single and multiple-circuit layouts), DPS advise that the following be included: a. plan and sections for all proposed layout schemes; b. depth and level of cover; c. separation requirements between circuits; d. clearing width limits for construction and operation of the Facility; e. limits of disturbance; and f. required permanent ROW.	The applicable information requested will be included on site plan drawings submitted with the Application.
87	DPS	Exhibit 12-1	Construction General Requirements	Section 3.12	DPS Staff recommends that this section include statements regarding how and when the Applicant will communicate with Stakeholders about construction activities, schedule and applicable safety and security measures.	The information requested will be included in the Application.
88	DPS	Exhibit 12-2	Construction General Requirements	Section 3.12	The Complaint Resolution Plan should include information on how and when the process to file a complaint (i.e. written, electronic and oral) will be communicated to the public. The Plan should also identify and include any procedures or protocols that may be unique to each phase of the project (e.g. construction, operation, decommissioning) or complaint type (e.g. noise). The Applicant will maintain a complaint log listing all complaints and resolutions during construction and operations of the Project and the Plan will include a procedure for review and transmittal of the complaint log to DPS Staff.	The Applicant will provide the mentioned information in the Complaint Resolution Plan and will maintain and submit a complaint log to DPS staff.
89	DPS	Exhibit 15-1	Public Health and Safety	Section 3.15	Discussion of waste materials generated (Exhibit 15(a)) should include consideration of waste wood generated during site clearing, including stumps and slash, and responsible disposal of these materials.	The requested information will be provided in the Application.

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90	DPS	Exhibit 15-2	Public Health and Safety	Section 3.15	DPS advises that the Application should address potential for glare and reflection from PV panel collector surfaces, and specifically address visibility from NYS Route 20 and other adjacent properties.	The Application will contain an analysis and description of potential glare related effects during operation of the Project and will also address visibility from NYS Route 20 and other adjacent properties.
91	DPS	Exhibit 18-1	Safety and Security	Section 3.18	The Applicant states that as part of the site security plan, the Applicant will communicate with stakeholders regarding construction activities. The plan should include a detailed description of the stakeholders included in the communication/notification efforts, the timeframes for notification and the planned communication methods (e.g. letter, doorhangers, telephone calls, etc.).	The requested additional information will be provided in the Application.
92	DPS	Exhibit 18-2	Safety and Security	Section 3.18	The Emergency Response Plan (ERP) should identify specific protocols for notifying different members of the public (e.g. emergency responders, host and adjacent landowners, utilities, environmental agencies, etc.) in the event of an emergency.	The Emergency Response Plan (ERP) will outline the contingencies that would constitute a safety or security emergency, the appropriate response measures to be taken as a result of this emergency, any evacuation control measures that may be necessary, and the means by which the community will be notified of the emergency and any procedures that shall be followed.
93	DPS	Exhibit 18-3	Safety and Security	Section 3.18	Discussion of Ex. 18(b)(5) should address consideration of local zoning and land use regulations for fence-line setbacks and security fencing design requirements.	The requested information will be provided in the Application.
94	DPS	Exhibit 18-4	Safety and Security	Section 3.18	For Ex. 18(h), DPS Staff recommends identifying the first responders/emergency services, such as Schoharie County Emergency Management, that will be consulted during the development of the ERP.	The Applicant will consult with the Schoharie County Emergency Management during development of the ERP.
95	DPS	Exhibit 18-5	Safety and Security	Section 3.18	The ERP should note that a copy of the final plan will be provided to the NYS Division of Homeland Security, as well as the local responders.	The Applicant will provide a copy of the final ERP to the NYS Division of Homeland Security as well as local responders.
96	DPS	Exhibit 19-1	Noise and Vibration	Section 3.19	Regarding PSS section 3.19(b) Ambient Baseline Noise Surveys, DPS requests that a map of the proposed Ambient Noise design points be provided immediately for DPS consideration of adequacy of baseline survey locations.	Ambient baseline noise survey locations have been included as an attachment to this table.
97	DPS	Exhibit 19-2	Noise and Vibration	Section 3.19	The PSS should address all the requirements of 16 NYCRR §1001.19 Exhibit 19. Please see DPS comments and recommendations in attached Appendix 2. The Applicants should revise and expand the scope of proposed studies to address all the requirements of 16 NYCRR §1001.19 Exhibit 19. The parties will continue discussing the scope of studies during the pre-application PSS and stipulation phases.	The Applicant is reviewing the DPS comments and recommendations and agrees to continue to discuss the scope of noise studies during the stipulation phase.
98	DPS	Exhibit 20-1(a)	Cultural Resources	Section 3.20	Discussion of ground disturbance associated with cable plow installation of buried electric cables (PSS page 79) cites to a document (EDR, 2017) that is not provided in the PSS bibliography at Section 5.0 References. a. Provide the reference document cited;	The citation for the PSS bibliography is as follows: EDR 2017:78-79 Preliminary Scoping Statement: Mohawk Solar, Montgomery County, New York. Prepared for Mohawk Solar LLC, a subsidiary of Avangrid Renewables LLC, Portland, OR. Prepared by Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, D.P.C. 217 Syracuse, NY. For Mohawk Solar the OPRHP defined areas of significant ground disturbance that would require archaeological survey, as "... any excavation or grading associated with the construction of access roads, inverter pads, and the substation, as well as any buried collection lines installed via an open trench greater than 1 foot (0.3 meter) wide, and any construction staging areas

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						which require grading, paving, and/or the installation of crushed stone.”
99	DPS	Exhibit 20-1(b)	Cultural Resources	Section 3.20	Discussion of ground disturbance associated with cable plow installation of buried electric cables (PSS page 79) cites to a document (EDR, 2017) that is not provided in the PSS bibliography at Section 5.0 References. b. Provide a discussion of characteristics and extent of disturbance associated with installation of multiple electric collection cables in parallel, such as cable separation distance requirements, and depth of installation of various cable plow equipment.	The appropriate citation is listed in the previous response. Installation methods used for collection lines will be included in the Application.
100	DPS	Exhibit 20-2	Cultural Resources	Section 3.20	Discussion of the Historic Architectural Survey and associated Area of Potential Effect (including establishing a field methodology during Phase 1A) suggests a range of distances from two to five miles. DPS recommends convening a meeting with SHPO staff and DPS to collectively discuss and consider appropriate criteria for Exhibit 20 studies.	The Applicant will convene a meeting with SHPO and DPS to collectively discuss and consider appropriate criteria for the Historic Architectural studies in Exhibit 20: Cultural Resources.
101	DPS	Exhibit 21-1	Geology, Seismology and Soils	Section 3.21	The description on page 86 and Proposed Studies item (i) notes that in the event that blasting is necessary, the Applicant will prepare a blasting plan. A preliminary blasting plan should include procedures and timeframes for notifying municipal officials and property owners within one-half mile radius of the blasting site of these activities.	Though no blasting is anticipated, the Applicant will provide the mentioned information in a preliminary blasting plan, should one be necessary.
102	DPS	Exhibit 21-2	Geology, Seismology and Soils	Section 3.21	Cut and fill calculations should be based on publicly available contour data and the analysis and recommendations included in the Preliminary Geotechnical Investigations. Separate estimates of materials that may need to be imported to the project area for access road construction, structural base for foundations, and compacted fill for placement of buried electric lines, should be provided.	Exhibit 21 will contain a study of the geology, seismology, and soils impacts of the Project, and will include preliminary cut and fill calculations based on publicly available contour data, and/or data obtained through a site-specific topographic survey. Separate calculations for topsoil, sub-soil and rock will be roughly approximated based on publicly available data from the Schoharie County Soil Survey. Separate estimates for the indicated imported materials will be provided as applicable.
103	DPS	Exhibit 21-3(a)	Geology, Seismology and Soils	Section 3.21	If horizontal directional drilling (HDD) is anticipated for stream/wetland crossings, road crossings, or other locations, the Application should include: a. a description of HDD operations;	As stated in the PSS, the Applicant will identify locations where trenchless excavation methods (e.g., HDD) may be proposed if determined necessary.
104	DPS	Exhibit 21-3(b)	Geology, Seismology and Soils	Section 3.21	If horizontal directional drilling (HDD) is anticipated for stream/wetland crossings, road crossings, or other locations, the Application should include: b. maps of the project area identifying proposed HDD locations;	If HDD is proposed for the Project, the Application will include mapping of the proposed HDD locations.
105	DPS	Exhibit 21-3(c)	Geology, Seismology and Soils	Section 3.21	If horizontal directional drilling (HDD) is anticipated for stream/wetland crossings, road crossings, or other locations, the Application should include: c. typical HDD equipment layout diagram;	The Application will identify stream/wetland crossing techniques in the Application, including a typical HDD layout diagram.
106	DPS	Exhibit 21-3(d)	Geology, Seismology and Soils	Section 3.21	If horizontal directional drilling (HDD) is anticipated for stream/wetland crossings, road crossings, or other locations, the Application should include: d. frac-out risk evaluation and contingency plan.	The Application will include this evaluation and plan if applicable.
107	DPS	Exhibit 21-4	Geology, Seismology and Soils	Section 3.21	The analysis of the suitability of existing soils for construction purposes should evaluate corrosion potential, including separate evaluations for the potential for corrosion of uncoated steel and the potential for corrosion and degradation of concrete. The discussion should also include an evaluation of the risk of damage or displacement to foundations and underground cables from frost action and soil shrink/swell (if applicable based on the soils types within the project area). If existing soils are proposed for re-use as structural and/or compacted fill, the Application should assess the suitability of existing soils specifically for those purposes and	Exhibit 21 shall contain a study of the geology, seismology, and soils impacts of the Project consisting of the identification and mapping of existing conditions, an impact analysis, and proposed impact avoidance and mitigation measures, including the requirements identified in 16 NYCRR §1001.21. The indicated considerations of corrosion potential, frost action, soil shrink/swell, and soil reuse will be discussed, as applicable.

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					describe screening measures to remove materials that do not meet the fill composition characteristics recommended by the Applicant's geotechnical expert.	
108	DPS	Exhibit 21-5	Geology, Seismology and Soils	Section 3.21	The Application should include a description of methods for minimizing potential post and pile driving vibrational impacts on nearby buildings, water wells, or other infrastructure. The Application should include a description and justification of any proposed pile-driving setback distances.	A description of methods for minimizing vibrational impacts on nearby infrastructure will be included in the Application, along with a description and justification of any proposed pile-driving setback distances.
109	DPS	Exhibit 21-6(a)	Geology, Seismology and Soils	Section 3.21	The proposed Facility is located within a mapped karst area. The Application should include a site-specific karst conditions assessment that will provide the following: a. Identify how construction activities will minimize excavations in karst-prone areas where excavations may facilitate subsurface erosion;	This information will be provided in the Application.
110	DPS	Exhibit 21-6(b)	Geology, Seismology and Soils	Section 3.21	The proposed Facility is located within a mapped karst area. The Application should include a site-specific karst conditions assessment that will provide the following: b. Address risks and impacts to karst features and aquifers from directional drilling frac-outs and soil and bedrock displacement during excavations, boring operations, and pile driving;	This information will be provided in the Application.
111	DPS	Exhibit 21-6(c)	Geology, Seismology and Soils	Section 3.21	The proposed Facility is located within a mapped karst area. The Application should include a site-specific karst conditions assessment that will provide the following: c. If blasting is proposed, description of potential impacts to karst features from blasting operations.	Though no blasting is anticipated, this information will be provided in the Application, if blasting is determined necessary.
112	DPS	Exhibit 22-1	Terrestrial Ecology and Wetlands	Section 3.22	16 NYCRR §1001.22(a): The "Field Review" of plant communities should include all communities found within the project boundary based on communities described in the Ecological Communities of New York State (Edinger et. Al.,2014). For each community identified, provide its Heritage Program Element Ranks	The requested information will be included in the Application.
113	DPS	Exhibit 22-2	Terrestrial Ecology and Wetlands	Section 3.22	Maps of the project area at a scale of 1:10,000, based on aerial photography, showing approximate locations and extent of identified plant communities as classified according to Ecological Communities of New York State (Edinger et al.,2014) must be included	The requested information will be included in the Application.
114	DPS	Exhibit 22-3	Terrestrial Ecology and Wetlands	Section 3.22	For project areas within 500 feet of disturbance areas provide maps at a scale of 1:2000 showing approximate locations and extent of identified plant communities as classified according to Ecological Communities of New York State (Edinger et al., 2014) must be included	The requested information will be included in the Application.
115	DPS	Exhibit 22-4	Terrestrial Ecology and Wetlands	Section 3.22	A plant species list, which will include all species identified during various field surveys, will identify the month and year observed to the extent available.	The requested information will be included in the Application.
116	DPS	Exhibit 22-5(a)	Terrestrial Ecology and Wetlands	Section 3.22	Proposed temporary and permanent impacts to plant communities shall be calculated and discussed including: a. Discuss specific assumptions associated with approximate limit of vegetation clearing for each type of Facility component as identified in the Preliminary Design Drawings associated with Exhibit 11.	The requested information will be included in the Application.
117	DPS	Exhibit 22-5(b)	Terrestrial Ecology and Wetlands	Section 3.22	Proposed temporary and permanent impacts to plant communities shall be calculated and discussed including: b. The application should include a table listing area assumptions used to determine vegetation disturbance by component (e.g. Solar Panel Installations, roads, collection lines, staging area, O&M buildings...).	The requested information will be included in the Application.
118	DPS	Exhibit 22-5(c)	Terrestrial Ecology and Wetlands	Section 3.22	Proposed temporary and permanent impacts to plant communities shall be calculated and discussed including: c. Calculate using GIS software, and present in a summary impact table, the number of acres impacted. Permanent impact calculations will include all tree clearing for construction and operation of the Facility.	The requested information will be included in the Application.

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119	DPS	Exhibit 22-5(d)	Terrestrial Ecology and Wetlands	Section 3.22	Proposed temporary and permanent impacts to plant communities shall be calculated and discussed including: d. The plant community mapping referenced in 22(a) above will also depict vegetation cover types in relation to proposed limits of vegetation disturbance, and associated GIS shapefiles of all areas of disturbance will be provided to NYSDEC and NYSDPS.	The requested information will be included in the Application. The shapefiles will be provided to NYSDEC and NYSDPS when finalized.
120	DPS	Exhibit 22-6	Terrestrial Ecology and Wetlands	Section 3.22	Provide an overview of vegetation management plans for operation and construction of the facility. Include a discussion of ground cover maintenance and forest clearing and ongoing vegetation maintenance required to prevent shading of solar panels.	The requested information will be included in the Application.
121	DPS	Exhibit 22-7(a)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of State and Federal Wetlands including: a. All State-regulated wetlands, Federal wetlands, streams, and environmentally sensitive areas that could potentially be impacted by the proposed Project as depicted in preliminary design drawings or wetland delineations.	The requested information will be included in the Application.
122	DPS	Exhibit 22-7(b)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of State and Federal Wetlands including: b. Identify the corresponding page number on preliminary design drawings depicting the resource.	The requested information will be included in the Application.
123	DPS	Exhibit 22-7(c)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of State and Federal Wetlands including: c. Include wetland delineation types, NYSDEC stream classifications, and descriptions of resources within environmentally sensitive areas.	The requested information will be included in the Application.
124	DPS	Exhibit 22-7(d)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of State and Federal Wetlands including: d. For each resource explain if the resource could reasonably be avoided.	The requested information will be included in the Application.
125	DPS	Exhibit 22-7(e)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of State and Federal Wetlands including: e. Propose site-specific actions to minimize impacts to resources that are not avoided or bypassed.	The requested information will be included in the Application.
126	DPS	Exhibit 22-8	Terrestrial Ecology and Wetlands	Section 3.22	A characterization of avian species will be completed using data from NHP, NYSDEC staff, USFWS, New York Breeding Bird Atlas (BBA), Hawk Migration Association of North America, Christmas Bird Count (CBC), eBird, and on-site surveys of U.S. Fish and Wildlife Service (USFWS) and New York Natural Heritage Program (NHP)	The requested information will be included in the Application.
127	DPS	Exhibit 22-9	Terrestrial Ecology and Wetlands	Section 3.22	Vernal pools should be inventoried at the time of wetland field delineations. The application should identify vernal pools that could be disturbed by construction operation of the Facility. A discussion should be included that evaluates the use of the identified vernal pools by amphibians and the potential impacts to those species.	The requested information will be included in the Application.
128	DPS	Exhibit 22-10	Terrestrial Ecology and Wetlands	Section 3.22	Discuss the potential impacts of perimeter fencing of the facility on wildlife movements, and opportunities for minimizing adverse impacts.	The requested information will be included in the Application.
129	DPS	Exhibit 22-11(a)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: a. Species name;	The requested information will be included in the Application.
130	DPS	Exhibit 22-11(b)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: b. Federal status;	The requested information will be included in the Application.
131	DPS	Exhibit 22-11(c)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: c. NYS status;	The requested information will be included in the Application.
132	DPS	Exhibit 22-11(d)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: d. SGCN listing;	The requested information will be included in the Application.
133	DPS	Exhibit 22-11(e)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the	The requested information will be included in the Application.

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					following columns: e. Habitat preference identified according to Ecological Communities of New York State (Edinger et al., 2014);	
134	DPS	Exhibit 22-11(f)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: f. Identify maps from 1001.22(a) that include habitat for each species;	The requested information will be included in the Application.
135	DPS	Exhibit 22-11(g)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: g. Source of information indicating potential presence of species;	The requested information will be included in the Application.
136	DPS	Exhibit 22-11(h)	Terrestrial Ecology and Wetlands	Section 3.22	Provide a table of state listed species, federally listed species, and species of greatest conservation need (SGCN), occurring or likely to occur within the project including the following columns: h. indicate if species was observed onsite.	The requested information will be included in the Application.
137	DPS	Exhibit 22-12	Terrestrial Ecology and Wetlands	Section 3.22	If it is determined by the NYSDEC that construction or operation of the Facility is likely to result in a take of state-listed species, including the adverse modification of habitat on which a listed species depends, the Applicant will submit an avoidance, minimization, and mitigation plan that demonstrates a net conservation benefit to the affected species pursuant to 6 NYCRR §182.11 (Part182), along with the informational requirements of an Incidental Take Permit (ITP), as provided for in Part 182. The Applicant should consult with NYSDEC to determine if an Incidental Take Permit is anticipated prior to filing the Application.	If it is determined a “take” is required through consultation with the NYSDEC, the Applicant will provide the requested information pursuant to 6 NYCRR §182.11 (Part 182) and any additional information to conform with the substantive requirements set forth for an Incidental Take Permit in Part 182.
138	DPS	Exhibit 22-13(a)	Terrestrial Ecology and Wetlands	Section 3.22	Invasive Species Identification: a. A list of all invasive plant species observed during field investigations and known to occur within the Facility. The list of invasive plant species in areas of proposed disturbance shall be based on observations recorded concurrent with field surveys conducted in support of Exhibits 22 and 23.	The requested information will be included in the Application.
139	DPS	Exhibit 22-13(b)	Terrestrial Ecology and Wetlands	Section 3.22	Invasive Species Identification: b. For areas of high invasive species density and as useful for management of individual invasive species, identify an area and concentration threshold that requires mapping and an individual management plan.	The requested information will be included in the Application.
140	DPS	Exhibit 22-13(c)	Terrestrial Ecology and Wetlands	Section 3.22	Invasive Species Identification: c. Provide [m]aps at a scale of 1:2000 of any identified concentrations of non-native invasive plant species in areas of proposed disturbance will be included.	The requested information will be included in the Application.
141	DPS	Exhibit 22-13(d)	Terrestrial Ecology and Wetlands	Section 3.22	Invasive Species Identification: d. A list of invasive species other than plants included in 6 NYCRR §§575.3 and 575.4, if any, limited to those incidentally observed during field work in support of Exhibits 22 and 23.	The requested information will be included in the Application.
142	DPS	Exhibit 22-14	Terrestrial Ecology and Wetlands	Section 3.22	Analysis of impacts on agricultural land required by Ex. 22(q) should include reference to the 2018 or latest edition of the NYS DAM Agricultural Mitigation Measures. As described above at Section 9, consideration of alternative Facilities arrangement and designs should provide analysis of designs that can accommodate a range of degrees of continued agricultural uses including grazing and crop production.	The requested information will be included in the Application.
143	DPS	Exhibit 22-15	Terrestrial Ecology and Wetlands	Section 3.22	Any field identification and/ or study of the plants, animals and/ or communities present on the facility site and associated areas should include a date (i.e., day, month and year) of observation.	The requested information will be included in the Application.
144	DPS	Exhibit 23-1	Aquatic Ecology and Water Resources	Section 3.23	The PSS states that the Applicant will submit FOIL requests to the Schoharie County Department of Health and NYSDEC to request information on the location and usage of existing water wells within the Facility Area. Staff recommends that a FOIL request letter also be submitted to the New York State Department of Health, and that each	To identify water wells within the Project Area, a Freedom of Information Law (FOIL) request letter, if necessary, will be sent to the Schoharie County Department of Health and the NYSDEC to request access to all publicly available water well information. As requested, the Applicant will also submit, if necessary, a FOIL

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					request solicit information for water wells located within a 2,000-foot radius of the Facility Area.	request letter to NYSDOH, a copy of which will be included in the Application. Because the utilization of blasting techniques is not anticipated for the Project, impacts to wells in the area are also not anticipated. As such, if blasting is not proposed, the request to NYSDOH will be made for data of existing groundwater wells within 500 feet of the Project Area.
145	DPS	Exhibit 23-2	Aquatic Ecology and Water Resources	Section 3.23	According to the PSS, the Application will include a map of wells based on information obtained from "outreach" by the Applicant. Staff recommends that the outreach efforts include distribution of a private water well survey to all landowners within a 2,000-foot radius of the proposed Facility Area. The water well survey materials should include a summary of the project, contact information and a description of where the well owner can get more information about the project (i.e. project website, document repositories, etc.), as well as an invitation to join the stakeholder list.	Groundwater aquifer maps will be prepared based upon publicly available information depicting groundwater flow direction, groundwater quality, groundwater well locations, and associated exclusion zones where information is readily available. Outreach to obtain data for these maps will be via a FOIL request letter sent to the Schoharie County Department of Health, NYSDEC, and NYSDOH to request access to all publicly available water well information. There is no blasting anticipated for the Project, and excavations for foundations and access roads are expected to be relatively shallow and are not anticipated to intercept groundwater within the surrounding aquifers. As such, the Applicant does not anticipate impacts to groundwater wells and maintains that public surveys are not necessary.
146	DPS	Exhibit 23-3	Aquatic Ecology and Water Resources	Section 3.23	The locations of public and private water wells should be verified through field observations where property access rights are obtained by the Applicant. Water well locations should be indicated on maps showing groundwater aquifer and recharge areas and shallow aquifer groundwater flow direction, distinguishing whether each well location is approximate or confirmed.	The Application will include well location information pursuant to the requirements stated in 16 NYCRR §1001.23(a)(2).
147	DPS	Exhibit 23-4	Aquatic Ecology and Water Resources	Section 3.23	The Application should include evaluation of potential impacts of stormwater runoff on agricultural uses and drainage patterns within and surrounding the Facility Area. The Application should describe how stormwater controls, and drainage features during site restoration, will be designed to avoid post-construction negative impacts to water wells and surrounding agricultural land uses.	The Application will include the requested evaluation of potential impacts of stormwater runoff on both agricultural uses and drainage patterns within and surrounding the Facility Area. The Application will also address design of stormwater controls, and draining features used during site restoration, in light of avoiding post-construction negative impacts on the mentioned resources.
148	DPS	Exhibit 24-1	Visual Impacts	Section 3.24	The discussion of the VIA study area at section 3.24.1 indicates a range of two to five miles as under consideration. DPS recommends providing a preliminary viewshed analysis of the proposed facility design to inform the discussion of defining the appropriate VIA for Exhibit 24, as well as the APE for Historic Architectural Studies at Exhibit 20.	During the pre-application phase and once a solar array layout has been determined, the Applicant will prepare a preliminary viewshed analysis for the purpose of defining the appropriate VIA and APE for Historic Architectural Studies. This preliminary viewshed analysis will be distributed to Involved Parties during the stipulation process.
149	DPS	Exhibit 24-2	Visual Impacts	Section 3.24	The range of visual resources described at PSS page 122 includes several categories of resources not present in the project vicinity. Adirondack Park resources, and Scenic Areas of Statewide Significance are not within the potential range of Facility visibility. Consultation with Adirondack Park Agency is not appropriate for this proposed project location (PSS pg. 125).	Understood.
150	DPS	Exhibit 24-3	Visual Impacts	Section 3.24	DPS reiterates its comments from the review of the Draft Public Involvement Program Plan regarding consultation with NYS Dept. of Transportation regarding the Route 20 Scenic Byway Corridor Management Plan (DPS Draft PIP Review, pg. 2); Developer	The Applicant will coordinate with DPS in consultation with the DOT to schedule meetings regarding information related to the Scenic Byway.

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					indicated its intent to consult with NYS DOT in response to DPS comment (Final PIP Plan, pg. B-3). DPS would like to participate in discussions between developer and DOT regarding the Scenic Byway.	
151	DPS	Exhibit 24-4	Visual Impacts	Section 3.24	DPS Staff recommends that this exhibit documents the identification and outreach to visual stakeholders pursuant to 1001.24(b)(4). Any visual stakeholders identified through the Viewpoint Selection process should be provided an opportunity to be added to the master stakeholder list. In addition, the Applicant should consider hosting an in-person meeting of the visual stakeholders during the viewshed analysis process.	Documentation of the identification and outreach to visual stakeholders pursuant to 16 NYCRR § 1001.24(b)(4) will be included in the Application. The Applicant will consider hosting an in-person meeting of the visual stakeholders during the viewshed analysis process.
152	DPS	Exhibit 28-1	Environmental Justice	Section 3.28	DPS recommends review of potential environmental justice communities using the US EPA EJ screening tool, EJSCREEN, which is based on 2010 US Census data, rather than the DEC mapping, which is based on older 2000 US Census data. EJSCREEN is available at https://www.epa.gov/ejscreen .	In order to confirm that the Project Area and surrounding half-mile buffer around the Project Area are not within an Environmental Justice Area, the Application will utilize minority population and household income data from the U.S. Census Bureau, 2012-2016 American Community Survey 5-Year Estimates for the Census Block Group(s) and Tract(s) in which the Project Area is located. This data will be compared with the thresholds of 6 NYCRR §487.3 for determining Potential Environmental Justice Areas.
153	DPS	Exhibit 28-2	Environmental Justice	Section 3.28	DPS Staff advises that the Applicant provide a map of the environmental justice communities in relation to the project facilities.	A map of environmental justice areas in relation to Project facilities will be provided in the Application.
154	DPS	Exhibit 29-1	Site Restoration and Decommissioning	Section 3.29	DPS Staff advises that the Applicant provide a procedure and schedule for notifying the local municipalities and landowners prior to decommissioning and restoration activities.	A procedure and schedule for notifying local municipalities and landowners prior to decommissioning and restoration activities will be provided in the Application.
155	DPS	Exhibit 31-1	Local Laws and Ordinances	Section 3.31	DPS requests that complete copies of Town of Sharon zoning and other land use and development laws, codes and regulations be provided as an appendix to the Application, including attachments, maps, tables and associated figures.	Aforementioned laws, codes and regulations will be included in the Application as an appendix.
156	DPS	Exhibit 31-2	Local Laws and Ordinances	Section 3.31	The Applicant notes that in the event Article IV (20)(G)(24)E.3g is left unchanged after the Town's moratorium on applications, it will request that the Siting Board not apply it to the project. Staff recommends the Applicant continue to discuss this concern and cooperate with the Town.	The Applicant will continue to discuss the moratorium with the Town to the extent they are willing to do so and will make best efforts to accommodate the Town's concerns to the extent practicable and reasonable.
157	DPS	Exhibit 32-1(a)	State Laws and Regulations	Section 3.32	Comments on Table 6, at PSS page 160-161: a. A petition or request for Clean Water Act §401 Water Quality Certification should only be made at such time as an Application for federal wetlands permits is submitted. See Article 10 regulations at 16 NYCRR §1000.8(a).	Understood.
158	DPS	Exhibit 31-1(b)	State Laws and Regulations	Section 3.32	Comments on Table 6, at PSS page 160-161: b. The Column "Regulatory Agency" indicates a footnote 1, however no such note or reference is provided.	Reference will be provided in the Application.
159	DPS	Exhibit 31-2	State Laws and Regulations	Section 3.32	Discussion at section 3.32(c) regarding "fuel gas transmission lines that are not subject to review under Article VII of the PSL" is potentially confusing to reviewing parties, as no such gas transmission lines are proposed to be constructed as part of the East Point project (as stated at PSS page 171 in Section 3.36): it is not necessary to recite the language from the regulation regarding construction of gas transmission lines in the PSS.	Understood.
160	DPS	Exhibit 40-1	Telecommunications Interconnection	Section 3.40	The analysis of facilities impacts should include probable environmental effects of the telecommunication interconnection.	The requested information will be provided in the Application to the extent available.

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161	Town of Sharon	General	Comprehensive Plan	Section 3.04	At the outset, the Town would like to note that the PSS refers to the Town of Sharon Comprehensive Plan adopted in 2009. However, the Town has since updated its Comprehensive Plan as of March 7, 2012, which the Applicant should refer to and apply to its Project accordingly.	Understood.
162	Town of Sharon	General	Proposed Study Area	Section 2.30	In its PSS, the Applicant proposes a 2-mile radius Study Area, which is the area "within at least two miles of the property lines of the Project Area" (PSS at 4), and only mentions a possible five-mile radius solely for visual impacts in Section 3.24 of the PSS (PSS at 119). The Article 10 Regulations provide however that, "[for large facilities ... with components spread across a rural landscape, the study area shall generally include the area within a radius of at least five miles from all generating facility components, interconnections and related facilities and alternative location sites" (16 NYCRR 1000.2(ar) (emphasis added)). The Regulations also contemplate the need for adjustment of the study area in areas of significant resource concerns, which, as discussed below, abound in the region of the proposed Project area. For these reasons, the Applicant should be required to broaden its Study Area, for all requisite studies, to a five-mile radius.	A two-mile study area was proposed in the PIP plan and no objection was received. The referenced regulation, in the Applicant's view, refers to "large" facilities such as wind or fossil fueled facilities, with components that are tall and therefore visible for many miles. Considering the Project's relatively low profile compared to wind power facilities, a five-mile APE is not required. Based on the scale of the Project and the Project setting, the Application will include the evaluation of a two-mile Study Area from all Project Area property boundaries unless stated otherwise in the Application for resource-specific surveys, such as viewshed analysis and historic resources. For the viewshed analysis and historic resource-specific surveys the Applicant is proposing a two- to five-mile Area of Potential Effects (APE) radius to identify specific historic resources and a two- to five-mile visual study area (VSA).
163	Town of Sharon	Exhibit 4-1	Land Use	Section 3.04	The proposed Project Area is fully within Schoharie County Agricultural District 3, which is a state-designated agricultural district containing Prime Farmland (PSS at 16). The Applicant proposes to detail how the Project will avoid or minimize impacts to Prime Farmland, including a description of any soil stripping, storage, and replacement upon completion of construction (PSS at 16). Given the large size of the Project area (approximately 1,313 acres), the Applicant should avoid disturbing Prime Farmland and instead place the Project's infrastructure on less productive portions of the Project area. If the Applicant does propose locating infrastructure on Prime Farmland, then the Applicant should describe in its Application why this was unavoidable in addition to describing how its impacts will be minimized.	The requested information will be provided in the Application.
164	Town of Sharon	Exhibit 4-2	Land Use	Section 3.04	The PSS states that the Applicant will conduct a qualitative assessment of the Project's compatibility with the Town of Sharon's Comprehensive Plan dated September 2009 (PSS at 17). As stated above, such an assessment should include the Town of Sharon Amendments to the 2009 Comprehensive Plan, dated March 7, 2012. The assessment should address compatibility with each Goal and Objective in the Town's Comprehensive Plan, as well as identify any Actions in the Plan that the Project may interfere with and describe the efforts to be taken by the Applicant to minimize that interference as much as possible.	The requested information will be provided in the Application, as applicable to the Project, and in accordance with the standards and requirements in Article 10 and its implementing regulations.
165	Town of Sharon	Exhibit 4-3	Land Use	Section 3.04	Finally, the PSS states that the Applicant will analyze the impacts of the Project on community character and states that community character includes "defining features and interactions of the natural, built and social environment, and how those features are used and appreciated in the community" (PSS at 21). The importance and appreciation of community character should be evaluated from the perspective of the local community, i.e. residents of the Town of Sharon and its surrounds. The Applicant should consider and describe how it intends to identify important local characteristics and the community's appreciation of such characteristics in this manner.	The Application will address the importance and appreciation of community character in the Application, by including a description of the community character in the Study Area, an analysis of impacts from the construction and operation of the Project on that community character, and proposed avoidance or mitigation measures that will minimize potential impacts on community character, should any be identified, to the maximum extent practicable. This evaluation will be in accordance with the requirements of 16 NYCRR §1001.4.

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166	Town of Sharon	Exhibit 9-1	Alternatives	Section 3.09	Given that the Project Area is roughly four times larger than the required footprint for facility components, it is reasonable to assume that there will be multiple alternatives to siting the proposed panels within the Project Area. In addition to the factors identified in the PSS to be considered when evaluating these alternatives, the Applicant should also consider: future uses of the proposed panel location; effect on soil productivity for agricultural purposes; visual impacts; other sensory impacts such as noise and glare; and any effect on neighboring property values. The Town and its residents are particularly concerned with visual impacts of the Project. Therefore, the Applicant should complete a visual impact assessment for each of the alternative panel layouts considered and explain why the selected layout has less of a visual impact than other alternatives.	The Applicant has designed the Project to maximize solar output and to efficiently interconnect to the existing power transmission system in Schoharie County, New York. Project layouts are currently being evaluated by the Applicant based upon the results of key resource studies and environmental impact assessments, including potential visual impacts, noise, potential glare and soils. A proposed Project layout will be presented in the Application along with a discussion of the alternative layouts considered reasonable and "feasible considering the objectives and capabilities" of the Project sponsor, in compliance with the Article 10 regulations.
167	Town of Sharon	Exhibit 9-2	Alternatives	Section 3.09	Furthermore, while the proposed Project area lies wholly within a state agricultural district, only portions of the proposed site are currently used for agricultural purposes. Given the importance of agricultural resources for the Town's economy and its residents, the Applicant should avoid these currently productive areas as much as possible and instead site panels on land that is already developed/disturbed. If the Applicant proposes to develop on currently productive portions of the proposed Project area, then the Application should describe why such areas could not be avoided and how the Applicant intends to ensure that these areas return to their productive status after the Project has been decommissioned.	The Application will include a discussion describing how the siting, construction, and operation of the Project will avoid or otherwise minimize impacts, to the maximum extent practicable, to Prime Farmland, including a description of the proposed methods for soil stripping, storage and replacement upon the completion of construction, where disturbance to such areas cannot be avoided. The Application will also present an evaluation of proposed agricultural restoration techniques due to temporary disturbance during construction in onsite laydown areas. A preliminary decommissioning plan will be presented in the Application, with a final plan included in the Compliance Filing after consultation with the Town.
168	Town of Sharon	Exhibit 13-1	Real Property	Section 3.13	The PSS focuses on the proposed Project area itself and does not discuss the effect on neighboring real property. The Applicant should also conduct studies to analyze the impact of the Project on neighboring property values and provide a discussion of how the Applicant intends to minimize such an impact.	The Applicant will be required to assess potential environmental impacts, within the scope of Article 10, on the Project Area itself and the potential for such impacts on the Project Study Area. Accordingly, potential environmental impacts to neighboring properties will be assessed and if any such impacts to these properties are identified, they will be avoided, minimized, or mitigated to the maximum extent practicable.
169	Town of Sharon	Exhibit 13-2	Real Property	Section 3.13	Furthermore, the Applicant should consider the tax implications of converting agricultural land to non-farm use. Such a conversion will result in loss of the land's agricultural tax exemption and may even be subject to sanctions or penalties under New York State's Agricultural Districts Law. The Applicant should consider these impacts when evaluating and discussing real property in its Application. The Applicant should also describe how it intends to return any converted land back to qualified agricultural use and reinstate application of an agricultural assessment after the Project is decommissioned.	The Applicant will prepare Exhibit 13: Real Property in accordance with the requirements of 16 NYCRR §1001.13. Information on restoration techniques to convert land back to agricultural use will be included in Exhibit 29: Site Restoration and Decommissioning. Reinstatement of agricultural assessment will not be discussed in the Application as it is outside the scope of Article 10.
170	Town of Sharon	Exhibit 15-1	Public Health and Safety	Section 3.15	When considering impacts to public health and safety, the Applicant should consider whether and to what extent it will employ chemicals such as pesticides or herbicides to control weeds and vegetation within the proposed Project area. The Application should identify any chemicals the Applicant may use, describe the purpose of the chemicals, and explain why using such chemicals is [are] necessary. If the Applicant will use such chemicals, then the Applicant should analyze the impact of such chemicals on local residents, including an assessment of potential exposure routes such as groundwater and runoff and any known health impacts of exposure, and identify ways	In the event that the Applicant chooses to employ the use of herbicides or fertilizers, information will be provided in the Application identifying typical types utilized and the reasoning for their use. In that case, the Applicant will also assess impacts of such herbicides and fertilizers on local residents and on ecological resources.

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					in which it can reduce such an occurrence. A similar analysis should be provided for fertilizers that the Applicant may use for any low-growing vegetation it employs as an erosion control measure.	
171	Town of Sharon	Exhibit 19-1	Noise and Vibration	Section 3.19	Local residents are particularly concerned with noise and humming that may emanate from the Project. When conducting noise impact assessments, the Applicant should consider potential impacts on neighboring residential properties through all phases of construction and operation.	Exhibit 19 of the Application will include a study of the potential noise impacts of the construction and operation of the Project.
172	Town of Sharon	Exhibit 19-2	Noise and Vibration	Section 3.19	Further, Section 3.19 of the PSS defines sensitive sound receptors as residences, outdoor public facilities and areas, hospitals, places of worship, and schools. The Project Area is bisected by U.S. Route 20, a NYS Scenic Byway, and also includes a number of locally designated scenic routes. Seven private burial grounds are located within or immediately adjacent to the Project Area. The Applicant should therefore be required to include viewing areas along state and local scenic routes and the aforementioned burial grounds as sensitive receptors in its noise impact assessment.	The Applicant will conduct Phase IA/IB archaeological studies and will also coordinate with the Town to identify and assess any on-site burial grounds within the Project Area and those within the Study Area. Offsite burial grounds and state and locally-designated improved scenic byway viewing areas will be considered as sensitive noise receptors.
173	Town of Sharon	Exhibit 20-1	Cultural Resources	Section 3.20	The Applicant states that the two- to five-mile-radius Study Area for the Project includes municipalities in Schoharie County and Montgomery County (PSS at 80). The Applicant should also include Otsego County in its Study Area since, as depicted in Figure 14 of the PSS, its border is within five miles to the west of the proposed Project area.	Where a five-mile radius is used for a study, any parts of Otsego County that fall within such radius will be included.
174	Town of Sharon	Exhibit 20-2	Cultural Resources	Section 3.20	Two cemeteries are located within the proposed Project area (Ball and Fritcher Cemeteries) and there are more cemeteries located immediately adjacent to the Site (Simmons, Gilbert's Corners, Lehman, Van Volkenburgh, Bellinger Cemeteries) (see Town of Sharon Comprehensive Plan, Exhibit D). Given that the panels will be secured by piles driven into the ground, the Applicant should consider the location of these cemeteries when contemplating alternative layouts for the panels on the Project site. The same consideration should be given when considering the location of buried electric collection lines. There are also significant sites of Revolutionary War events within the Project Study Area, including the Battle of Sharon and the encampment at Cedar Swamp, that the Applicant should consider when conducting impact assessments. Finally, the Applicant should consider whether public access to these cemeteries and significant cultural sites can be preserved throughout the life of the Project, given their value as a cultural resource.	The Applicant will note the presence of any cemeteries and other significant cultural features within the APE and seek to avoid impacts to all such resources to the maximum extent practicable. The Project will not impact public access to any cemeteries or other significant cultural sites located within the Study Area during Project operation. Access to any cemeteries located within the Project Area will be subject to the approval of the landowner and the Applicant.
175	Town of Sharon	Exhibit 21-1	Geology, Seismology and Soils	Section 3.21	Much of the proposed Project area is within the karst limestone formation of the Schoharie Valley. This formation is a valuable geological resource, as it is one of the finest examples of glaciated karst in the United States. The Applicant should consider how it intends to preserve and take care not to disturb such a resource, especially when installing ground-penetrating infrastructure. Furthermore, there are a number of areas within the proposed Project area that contain steep slopes. The Applicant should describe how it intends to avoid disturbing these slopes to avoid severe erosion and sedimentation and to protect the viewshed.	The Applicant will consider these resources and include information describing how it intends to avoid disturbance of the resources to the maximum extent practicable.
176	Town of Sharon	Exhibit 21-2	Geology, Seismology and Soils	Section 3.21	Finally, much of the proposed Project area is categorized as Prime Farmland or Prime Farmland if drained (PSS at 87). As discussed in greater detail above, the Applicant should describe how it intends to avoid disturbance of these areas as much as possible.	Information about avoiding or minimizing impacts, to the maximum extent practicable, will be provided with the Application.
177	Town of Sharon	Exhibit 22-1	Terrestrial Ecology and Wetlands	Section 3.22	The Applicant states that it has reached out to state entities to evaluate potential impacts to state-listed species potentially located within the proposed Project Area	The Applicant is currently in the process of coordinating with the appropriate state agencies to evaluate potential impacts to

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					(PSS at 102). The New York State Department of Environmental Conservation ("DEC") has determined that there are at least four state endangered and threatened avian species in the vicinity of the proposed Project area: the Northern harrier (threatened), the Short-eared owl (endangered); the Henslow's sparrow (threatened); and the Sedge wren (threatened). Please see the Habitat Maps prepared by DEC for more information, attached as Attachment A. The Applicant should include these state threatened and endangered species in its PSS and consider impacts to these species in its Application. Since DEC required a nearby subdivision project to obtain an Incidental Take Permit for its impact on the threatened and endangered species, it is possible that the Applicant will also need to obtain such approvals from DEC before the Project can move forward.	state-listed species potentially located within the proposed Project Area. The Applicant will include an impact analysis, as applicable, in the Application.
178	Town of Sharon	Exhibit 22-2	Terrestrial Ecology and Wetlands	Section 3.22	Furthermore, the Work Plan for the Grassland Breeding Bird Survey in Appendix F of the PSS states that the study area was only surveyed once in the morning. However, given the presence of nocturnal threatened and endangered avian species in the area, the grassland breeding birds survey undergone by the Applicant should have included evening surveys of the proposed Project area to fully assess presence and site use.	Following consultation with NYSDEC, the Applicant conducted evening Breeding Bird surveys at the Project Area. Information documenting this survey will be included with the Application.
179	Town of Sharon	Exhibit 22-3	Terrestrial Ecology and Wetlands	Section 3.22	There are important ecological resources located within the region, including three, class C priority streams within the proposed Project area. The proposed Project area also contains hydric soils, which indicate the presence of wetlands on the proposed Project Site. Moreover, the Site contains or is adjacent to mapped DEC wetlands. The Applicant should consider such ecological resources when determining where to site Project infrastructure, and should take steps to prevent environmental impacts such as erosion, sedimentation, and runoff from affecting these resources during all phases of construction and operation of the Project.	The ecological resources mentioned will be considered when determining Project siting and steps will be taken to avoid or minimize ecological impacts to these resources to the maximum extent practicable.
180	Town of Sharon	Exhibit 22-4	Terrestrial Ecology and Wetlands	Section 3.22	Furthermore, if the Applicant intends to introduce vegetation for screening or employs green infrastructure practices to manage stormwater runoff, the Applicant should ensure that it is using only native species and pollinators.	The Application will specify what species will be used for screening and green infrastructure purposes. The use of native species and pollinators will be considered.
181	Town of Sharon	Exhibit 23-1	Water Resources and Aquatic Ecology	Section 3.23	The Applicant states that the Application will be accompanied by a preliminary SWPPP (PSS at 113). This preliminary SWPPP should be as close to a complete SWPPP as is technically feasible, based on the level of detail available at the time of Application. Furthermore, the SWPPP should include pre- and post-development hydrologic modeling and water quality calculations.	The preliminary SWPPP provided with the Application will be as close as technically possible to a complete SWPPP and will be completed when the final Project layout is known. Pre- and post-development hydrologic modeling and water quality calculations will be included in the Application.
182	Town of Sharon	Exhibit 23-2	Water Resources and Aquatic Ecology	Section 3.23	The Project area is within West Creek, Flat Creek, and Brimstone Creek drainage basins and contains one unconsolidated aquifer north of Route 20. The unique karst topography of the region results in rapid and complex underground movement of groundwater, thereby making the terrain particularly fragile and susceptible to pollution. Moreover, because groundwater flow in karst topography is particularly complex, it can be difficult to fully understand contaminant transport and the fate of contaminants in these systems. These unique characteristics should be taken into consideration by the Applicant when preparing its SWPPP and analyzing impacts to groundwater. In particular, the Applicant should describe how it intends to prevent sedimentation and contamination or other impacts to these hydrologically sensitive areas, as well as how it intends to prevent erosion and runoff onto neighboring properties.	The Applicant will take the hydrogeology of the region into consideration when preparing the SWPPP and describe in the Application how it intends to prevent ecological impacts to these areas to the maximum extent practicable.
183	Town of Sharon	Exhibit 23-3	Water Resources and Aquatic Ecology	Section 3.23	Finally, the Applicant proposes to analyze impacts to private water wells only within a one-mile radius of the Project Area (PSS at 116). Given the significant hydrological	In accordance with 16 NYCRR §1001.23(a)(3), based upon publicly available information, an analysis and evaluation of

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					resources present in the area as described above, including the known interconnectedness of karst groundwater systems, this radius should be expanded to at least two miles.	potential impacts (during normal and drought conditions) from the construction and/or operation of the Project on drinking water supplies, groundwater quality and quantity in the Project Area will be prepared, including potential impacts on public and private water supplies, including private wells within a one mile radius of the Project Area, and wellhead and aquifer protection zones.
184	Town of Sharon	Exhibit 24-1	Visual Impacts	Section 3.24	The Town and its residents are particularly concerned with visual impacts from this Project, and request that the Applicant take care to effectively quantify such impacts and mitigate accordingly. There are many visual resources within the proposed Project area; Route 20 is a Scenic Byway, and Argusville, Gilberts Corners, and Kilts Roads are designated as scenic routes in the Town's Comprehensive Plan. The Applicant should describe how it intends to reduce visibility as much as possible from these visually important areas, and how it intends to avoid adversely affecting the area's importance as the Gateway to Sharon Springs. Furthermore, the Applicant should carefully consider the visual impacts of the Project from all residential neighboring properties, as this Project could impose a drastic change in their views, and property values, if not sited properly.	The Applicant is aware of Route 20 Scenic Byway as well as other scenic roads in the vicinity and will be providing a series of visual photo simulations showing before and after depictions of the Project from these locations where there are views. Impacts will be quantified, and mitigation, if determined necessary, will be discussed in Exhibit 24: Visual Impacts. Furthermore, pursuant to 16 NYCRR §1001.24(b)(4), the Applicant will be conducting general and specific consultations and outreach with affected agencies and municipalities with respect to visual impacts.
185	Town of Sharon	Exhibit 24-2	Visual Impacts	Section 3.24	The PSS states that the Applicant will contain an analysis of glare effects during operation of the Project (PSS at 122). In doing so, the Applicant should evaluate alternative panel and infrastructure designs and describe why the designs selected by the Applicant will produce the least glare and reflection. In particular, the Applicant should analyze visual and glare effects on neighboring residences and on drivers using adjacent roadways for both aesthetic and safety reasons. Furthermore, the Applicant should consider glare effects on low-flying planes that are departing and arriving from the local airport nearby.	The Application will contain an analysis and description of potential glare-related effects during operation of the Project, including an evaluation of consistency with FAA requirements, if applicable.
186	Town of Sharon	Exhibit 25-1	Effect on Transportation	Section 3.25	The Applicant proposes to use existing roads surrounding the proposed Project area (PSS at 127). The Town is concerned with the use of Gilbert's Corners Road and Argusville Road during construction, as these roads are small, one-lane roads that do not have the capacity for the flatbed trucks that the Applicant proposes to use. Gilbert's Corners and Argusville Roads are also considered scenic routes.	The Applicant acknowledges that Gilbert's Corners Road and Argusville Road are designated scenic routes in the Town of Sharon Comprehensive Plan and will consider this in planning road use and routes for the duration of Project construction.
187	Town of Sharon	Exhibit 25-2	Effect on Transportation	Section 3.25	The Applicant states that a 24-hour traffic volume count is inapplicable to this Project (PSS at 129). However, given the proximity of the Wal-Mart Distribution Center, which operates 24/7 and employs over 600 people, 24-hour traffic volume counts are applicable to this Project and therefore should be included in the Applicant's traffic study.	In accordance with 16 NYCRR §1001.25(b)(5), 24-hour traffic volume counts are only required in "congested urbanized areas." As such, this requirement is not applicable to the Project.
188	Town of Sharon	Exhibit 25-3	Effect on Transportation	Section 3.25	In addition to the studies identified in the PSS, the Application should also include: Study of offsite improvement plans and ancillary features;	Though no offsite improvements are anticipated to be necessary, should the Project require offsite improvements, these will be assessed in the Application.
189	Town of Sharon	Exhibit 25-4	Effect on Transportation	Section 3.25	In addition to the studies identified in the PSS, the Application should also include: Route Evaluation Study;	No oversized deliveries are anticipated as part of the Project. Therefore, per 16 NYCRR §1001.25 exhibit requirements, route evaluations are not required and will not be included in the Application. However, approach and departure routes, and notification to the governing agency will be included and described in the Application in accordance with 16 NYCRR §1001.25(b)(3). Additionally, an analysis of the suitability of

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						existing road surfaces and intersections for transport of Project related materials to the Project Area will be provided.
190	Town of Sharon	Exhibit 25-5	Effect on Transportation	Section 3.25	In addition to the studies identified in the PSS, the Application should also include: Study of the anticipated quantity of material to be imported to the facility site and an analysis of impacts on existing public transportation infrastructure.	Exhibit 25: Effect on Transportation of the Application will identify the number of trips required for the delivery of Project materials. Transit and school bus routes will also be reviewed and assessed within the Application.
191	Town of Sharon	Exhibit 25-6	Effect on Transportation	Section 3.25	Any public road upgrades, anticipated restoration, and/or bonding for damages should also be included in the Application, along with draft road use and restoration agreements (or similar) with the respective owner of the roadways (Town, County, etc.).	The Application will include information on any anticipated public road upgrades and necessary restoration. If a road restoration agreement is in place, it will be included in the Application for information purposes only. The negotiation of Road Use Agreements is outside the scope of Article 10.
192	Town of Sharon	Exhibit 25-7	Effect on Transportation	Section 3.25	Roadway restoration agreements should be negotiated as part of the stipulations process so that sufficient information can be provided in the Application on such impacts. As discussed below, the Applicant's roadway use and any proposed restoration or upgrade should be in conformance with the Town of Sharon's Roadway Preservation Law as well as the County's Road Preservation Law.	See response to Comment 191. Roadway Restoration agreements will be negotiated concurrently throughout the stipulations and application processes and will be in place prior to construction. The Applicant will include a demonstration of compliance with the substantive requirements of the Town's and County's Roadway Preservation Laws in Exhibit 31: Local Laws and Ordinances.
193	Town of Sharon	Exhibit 27-1	Socioeconomic Impacts	Section 3.27	The Applicant has not described any socioeconomic benefit that the Town would receive from the Project as the host community. The PSS states that the Project will only provide temporary jobs, despite taking away over 1,313 acres of property that could provide permanent employment by other industries. Furthermore, poor siting and effect on valuable environmental and cultural resources in the area would discourage tourism and potential new residents and homeowners. In its Application, the Applicant should consider how it intends to mitigate these impacts.	It should be noted that while the Project Area consists of 1,313 acres, only approximately 350 acres will be utilized for development of the East Point Energy Center and the remaining 963 acres of land may be available for continuation of existing uses, such as agriculture. A detailed socioeconomics analysis will be prepared detailing the Project's benefits to the Town and surrounding communities as part of Exhibit 27: Socioeconomic Effects.
194	Town of Sharon	Exhibit 27-2	Socioeconomic Impacts	Section 3.27	The Application should also include copies of any PILOT agreements to the extent possible.	The negotiation of PILOT Agreements is outside the scope of Article 10. If one has been executed in sufficient time before the Application is to be filed, information from the Agreement, to the extent the signatory parties agree, will be provided in the Application.
195	Town of Sharon	Exhibit 28-1	Environmental Justice	Section 3.28	The PSS does not address environmental justice in the context of rural, agricultural communities, as would be relevant for the siting of this Project. The Town of Sharon is a rural, upstate New York Community that is supportive of new development but also committed to providing its citizens with safe living and a stable tax base (see Town of Sharon Comprehensive Plan at 4). According to the United States Census Bureau, as of 2016 the median household income for the Town was \$45,313, which is over \$10,000 lower than the national average (\$57,617) and over \$17,000 lower than the average for New York State (\$62,909). Over 20% of the Town's population lives below poverty level. The Town has one of the poorest economies in the region and many of its residents rely on agriculture to support themselves. This Project will utilize the Town's productive farmland to produce energy that the Town's community will not receive. The Town of Sharon is already home to a 15-acre solar facility, the Birdseye Solar Project, that also does not provide any energy directly to the community. The Applicant should therefore consider whether siting of the Project in this area is	In accordance with 16 NYCRR §1001.28 of the Board's regulations, the Applicant has determined that there are no Environmental Justice Areas within the Project Area. Exhibit 27: Socioeconomic Effects will address the local economy as required by the applicable regulation.

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					perpetuating a pattern of disproportionate effects on low socioeconomic communities in the Town, and should describe how it intends to offset such effects.	
196	Town of Sharon	Exhibit 28-2	Environmental Justice	Section 3.28	Furthermore, given that the Applicant proposes to remove over 1,313 acres of land from potentially productive use, the Applicant should consider the long-term socioeconomic effects of removing this land from productive use on the community as a whole.	It should also be noted that while the Project Area consists of 1,313 acres, only approximately 350 acres will be utilized for development of the East Point Energy Center and the remaining 963 acres of land may be available for continuation of existing uses, such as agriculture. The Applicant will address socioeconomic effects as part of Exhibit 27: Socioeconomic Effect, in compliance with the applicable regulation.
197	Town of Sharon	Exhibit 31-1	Local Laws and Ordinances	Section 3.31	The Town appreciates the Applicant's acknowledgement of its solar moratorium (the "Moratorium") in the PSS and the Applicant's commitment to cooperate therewith (PSS at 150). However, the Applicant should further acknowledge that the Moratorium may be extended for an additional six months (see Town of Sharon Local Law 2, 2018). Should the Town require another six months, the Town requests that the Applicant continue to cooperate with the Town through this period. Furthermore, as suggested in the PSS, the Town expects the Applicant to comply with any resulting changes in its Solar Law, including all relevant bulk and area requirements such as but not limited to setbacks, lot coverage, and screening standards.	The Applicant acknowledges that the Moratorium may be extended. As possible changes to the Solar Law are unknown at this time, it would be unreasonable for the Applicant to state it will comply. The Applicant does state that it will continue to cooperate with the Town and will attempt to comply with any resulting applicable substantive changes, to the maximum extent practicable, in the Solar Law in effect at least three months prior to the filing of the Application. The Applicant looks forward to a continuing and productive dialog with the Town.
198	Town of Sharon	Exhibit 31-2	Local Laws and Ordinances	Section 3.31	Sections E.3.c, E.3.g, E.3.i, E.3.p, and E.3.j of the Town's Solar Law were listed as procedural in Section 3.31 of the PSS, but they are clearly substantive in nature. As stated in Section 1001.31 of the Article 10 Regulations, "[m]isclassification of items . . . may be grounds for finding the application not in compliance" (16 NYCRR 1001.31(a)). Failure of the Applicant to identify the substantive nature of these sections and demonstrate compliance accordingly would therefore result in an incomplete Application.	Sections E.3.c, E.3.g, E.3.i, E.3.p and E.3.j of the Town's Solar Law were listed as procedural as they all require that a discretionary decision be made by an acting board, thus effectively requiring an approval and making the requirement procedural in nature. These discretionary decisions involve determining what constitutes: a significant adverse impact (E.3.c); the maximum extent feasible (E.3.g); to avoid or minimize (E.3.i); the Planning Board may recommend modifying landscaping requirements (E.3.p); and, shall prevent...in excess of that which already exists (E.3.j). These particular Sections of the Town's Solar Law do not include a substantive standard (such as a quantitative distance/limit, code, or requirement) as those defined at 16 NYCRR §1000.2(u) and, therefore, the Applicant considers them procedural requirements.
199	Town of Sharon	Exhibit 31-3	Local Laws and Ordinances	Section 3.31	Particularly, the Applicant should be required to comply with the Town's Solar Law requirement to locate the arrays on a parcel so as to avoid soils classified as prime farmland (see Town Code § 20(G)(24)(E)(3)(g)). As stated in the PSS, 11 soils in the Project area are designated by NRCS as Prime Farmland, Prime Farmland if drained, or Farmland of Statewide Importance (PSS at 16). Additionally, the proposed project area lies wholly within a State Agricultural District (see PSS Appendix D, Fig. 6). Thus, compliance with Section E.3.g will require careful consideration of layout alternatives to minimize the impact to valuable soils as much as possible. The Applicant should detail such consideration and how it intends to comply with this requirement in its Application.	See response to comment number 198 above. The Application will include mapping that documents the farmland classification for all soils within the Project Area. The Application will also include a discussion describing how the siting, construction, and operation of the Project will avoid or otherwise minimize impacts, to the maximum extent practicable, to Prime Farmland, including a description of the proposed methods for soil stripping, storage and replacement upon the completion of construction, where disturbance to such areas cannot be avoided.
200	Town of Sharon	Exhibit 31-4	Local Laws and Ordinances	Section 3.31	The Applicant should also be required to comply with the Town's Solar Law requirement to site the facility and its off-site infrastructure to avoid or minimize visual impacts (see Town Code § 20(G)(24)(E)(3)(i)). Section 3.24 of the PSS describes the visual impact studies proposed by the Applicant. In order to comply with Section	See response to comment number 198 above. As noted in the proposed studies for Exhibit 24: Visual Impacts, the Application will include a Visual Impact Assessment to determine the extent and assess the significance of Project visibility. This will include

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					E.3.i of the Town's Solar Law, these studies should specifically include an analysis of visual impacts as viewed from the following locations identified in Section E.3.i: publicly dedicated roads and highways, including Route 20 and 10; and existing residential dwellings located on contiguous parcels. In addition, the Applicant should consider any berms, landscape screens, or other opaque enclosures, or any combinations thereof that are "capable of fully screening the site" to comply with the requirements of Section E.3.i.	an assessment on potential visual impacts to sensitive receptors such as adjacent residential dwellings and public roadways. The Application will also detail any proposed visual screening measures such as berms and/or landscaping.
201	Town of Sharon	Exhibit 31-5	Local Laws and Ordinances	Section 3.31	Finally, the Applicant should be required to comply with the requirement to design, construct, operate, and maintain the facility in a manner that prevents misdirection and/or reflection of the rays onto neighboring areas of the site (see Town Code § 20(G)(24)(E)(3)(j)). The Applicant indicates in its PSS that it will use panels that will absorb, rather than reflect sunlight (PSS at 122). In order to comply with Section E.3.j, the Applicant should further demonstrate in its Application that the panels and other infrastructure will not create reflection or glare on neighboring properties, public roads, and public parks. The Town would also appreciate a commitment to this requirement reflected in the Applicant's proposed stipulations to ensure that this impact will be avoided early in the process.	Please see response to comment number 198 above. The Application will contain an analysis and description of potential glare-related effects during operation of the Project and if there are significant glare effects, how they will be avoided, or minimized to the maximum extent practicable. The Applicant will commit to including this analysis in its proposed studies.
202	Town of Sharon	Exhibit 31-6	Local Laws and Ordinances	Section 3.31	Should utility-scale solar systems remain a specially permitted use after the expiration of the Moratorium, the Applicant should be required to demonstrate compliance with the special permit criteria in its Application to ensure that the site is appropriately zoned for such a system. Likewise, if the permit requirements for utility-scale solar systems are changed during the Moratorium, the Applicant should demonstrate compliance accordingly.	See response to Comment 197 above. The Application will include a demonstration of compliance, to the maximum extent practicable, with the substantive requirements of the Town's local laws, including any substantive requirements of the special permit criteria, of those in effect at least three months prior to the filing of the Application. Where compliance would be unreasonably burdensome, appropriate relief will be requested from the Siting Board. The Applicant looks forward to a productive dialogue with the Town.
203	Town of Sharon	Exhibit 31-7	Local Laws and Ordinances	Section 3.31	Notably, the Applicant points out that it will be unable to meet 20% or no more than 10 acres coverage limitation. Instead, the Applicant is proposing to cover 27% of the area and is requesting a waiver from the coverage requirement. Compliance with the Town's coverage requirement should not be waived because it serves the critical purpose of preserving open space and maintaining the historic agricultural character of the Town, which is already placed in jeopardy by the mere size of this Project to be sited predominately on agricultural land. The Applicant should therefore be required to comply with the coverage limitation to prevent lasting impacts to the agricultural landscape.	As noted in the PSS, the 10-acre coverage restriction imposes a technological restriction on the Project, making it impossible to build. In order to meet the 50 MW generating capacity selected by NYSERDA under the 2017 Renewable Energy Standard Solicitation (RESRFP 17-1). More land area is required to site the number of solar panels necessary to meet this generating capacity, while employing appropriate mitigation and/or avoidance of certain natural features at the Project Site. This regulation would be unreasonably burdensome in the view of existing technology and would prohibit the Applicant from developing a solar facility capable of producing 50 MW of generating capacity from a clean, renewable resource.
204	Town of Sharon	Exhibit 31-8	Local Laws and Ordinances	Section 3.31	Finally, the Applicant lists a number of other zoning regulations from Article IV of the Town's Code (Supplementary Regulations) and states that their applicability will be assessed in the Application (PSS at 155). The Applicant should detail applicability of each section and subsection for these regulations in its Application, as it did for the Town's Solar Law in the PSS.	This information will be included in the Application.
205	Town of Sharon	Exhibit 31-9	Local Laws and Ordinances	Section 3.31	The Applicant mentions local roadway impacts in its discussion regarding transportation in Section 3.25 of the PSS. The Applicant should also identify the Town of Sharon Roadway Preservation Law as an applicable local requirement (Local Law 1,	The Application will include a demonstration of compliance with the substantive requirements of the Town's Roadway Preservation Law. The Applicant intends to negotiate Road Use

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					2012). The Roadway Preservation Law imposes a permit system for high frequency or high impact traffic use on Town roads to "minimize and mitigate damage to town roads and bridges" (Town of Sharon Roadway Preservation Law, § 2). The PSS states that the Applicant will employ trucks during the construction phase of the proposed Project, as well for periodic maintenance during its operation (PSS at 127-28). Therefore, to the extent that the Applicant will be using roads that are managed by the Town, the Applicant should demonstrate compliance with the requirements of the Roadway Preservation Law in its Application, and the Applicant should be responsible for any repairs for damage to Town roads or property that is caused by traffic in connection with the proposed Project.	Agreements with the Town, outside but concurrent with the Article 10 process.
206	Town of Sharon	Exhibit 31-10	Local Laws and Ordinances	Section 3.31	It should be noted that the County has its own Road Preservation Law (Local Law 1, 2012) that imposes similar requirements for its own roadways. To the extent that the Applicant will be using County roads, the Applicant should also demonstrate compliance with the Schoharie County Road Preservation Law.	The Application will include a demonstration of compliance with the substantive requirements of the County's Roadway Preservation Law.