

STATE OF NEW YORK
OFFICE OF RENEWABLE ENERGY SITING

In the Matter of the Application of

Prattsburgh Wind, LLC

ORES DOCKET NO. 21-00749

For a 94-c Permit for Major Renewable Energy
Facility

**PETITION FOR PARTY STATUS AND ISSUES FOR ADJUDICATION
PURSUANT TO 19 NYCRR §900-8.4(c)**

TOWN OF COHOCTON

Submitted by:

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Introduction

Pursuant to 19 NYCRR §900-8.4(c) and the Combined Notice of Availability of Draft Permit Conditions, Public Comment Period and Public Comment Hearing, and Commencement of Issues Determination Procedure, dated December 29, 2023, the Town of Cohocton (“Town”) hereby submits this Petition requesting full party status and to identify significant and substantive issues for adjudication. The issue proposed for adjudication is related to the cumulative noise impact assessment presented in the Application for the facility (the “Facility”), proposed by the applicant Prattsburgh Wind, LLC (the “Applicant”), filed September 26, 2022, as supplemented and deemed complete by ORES on October 30, 2023 (the “Application”), and subject to the terms, standards, and conditions of the Draft Permit for a Major Renewable Energy Facility, issued December 29, 2023 (the “Draft Permit”).

The Town is currently the site of 72 wind turbines including 50 wind turbines with the Dutch Hill and Cohocton Wind projects,¹ which were each issued a special permit under the Town’s Zoning Law and recently repowered, and 22 turbines and an interconnection substation for the Baron Winds project, which was permitted under Article 10 of the Public Service Law. The Application barely mentions these other 72 wind turbines located in the Town and gives short shrift to the cumulative impacts to the Town of the proposed Facility. The Town has lived with the impacts of some of these wind projects for more than 15 years, including the noise, visual, and community character impacts. Needless to say, the Town has done far more than its fair share towards attaining the goals of the CLCPA.

Of note, the Dutch Hill and Cohocton Wind projects complied with the Town’s Zoning Law and the Baron Winds project did as well. Unlike the proposed Facility, Baron Winds did not request any waivers

¹ Figure 3-7, Proposed Land Uses does not fully represent the location of all of the active wind turbines currently present in the Town. While it shows the Baron Winds and Cohocton Wind project turbines, the Dutch Hill wind project includes 15 turbines located generally in the northwest portion of Town near Dutch Hill Road. The proposed Facility essentially fills in the remaining part of Town where wind turbines are not present.

of the Town's Zoning Law under Article 10.² Prattsburgh Wind requested (and ORES has granted) the waiver of substantive requirements of the Town's Zoning Law and, as discussed below, has not performed a satisfactory cumulative noise assessment for the six additional wind turbines and substation expansion proposed in the Town because the baseline noise assessment was performed prior to the repowering of the Cohocton/Dutch Hill wind project (with different turbines) and prior to the installation and commissioning of the Baron Winds project. As discussed below, based on the recommendation of the Town's noise consultant, a noise survey should be performed in areas of the Town where the cumulative noise impacts may result in exceedances of the Town and ORES noise standards and used to update the noise study performed to reassess the cumulative impact of the Facility in the context of the existing conditions in the Town. A thorough assessment of cumulative noise impacts, based on actual conditions, is necessary to ensure the proposed Facility does not result in noise impacts above applicable standards to non-participating residents in the Town.

Required Contents for Petition for Party Status

1. *19 NYCRR §900-8.4(c)(1)(i)—Identification of Party and Party Representatives:* The proposed party is the Town of Cohocton. The persons who will act as party representatives for the Town are as follows:

Judith Hall
Town Supervisor
Town of Cohocton
19 Main Street
P.O. Box 200
Atlanta, NY 14808
townofcohocton@aol.com
Phone: (585) 534-5100

David Miller, Esq.
Town Attorney for the Town of Cohocton
111 North Main Street
Naples, NY 14512-0457
buffalojumpers@yahoo.com
Phone: (585) 374-2130

² Case No. 15-F-0122, Application of Baron Winds LLC, Order Granting Certificate of Environmental Compatibility and Public Need, with Conditions, September 12, 2019, at 146-60. The proposed Facility does not comply with the Town's zoning law with regard to wind turbine height. The proposed Facility also does not strictly comply with the Town's requirements for ancillary structure height and undergrounding of distribution/transmission lines but is of the opinion that the proposed electrical cables and ancillary structures would be permitted the Town Planning Board under its discretionary authority under the Town's zoning law.

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2. *19 NYCRR §900-8.4(c)(1)(ii)—Statement of the petitioner's interest related to the standards and conditions established by the ORES for the siting, design, operation, and construction of the project:* Pursuant to 19 NYCRR §900-6.3(a), the proposed Facility is located within the Town and is required to be designed to be sited, constructed, and operated in compliance with the substantive local laws and regulations of the Town unless they are deemed unreasonably burdensome by ORES. As discussed in detail below, the cumulative noise assessment for the Facility may not adequately represent the current baseline noise associated with the 72 wind turbines currently operating in the Town and therefore does not demonstrate that the proposed Facility will be in compliance with applicable noise standards.

3. *19 NYCRR §900-8.4(c)(1)(iii)—Identification of any interest relating to statutes administered by other State agencies or ORES relevant to the project:* As discussed in detail below, the proposed Facility is required to be designed to comply with the standards and conditions established by ORES, but may not comply with the ORES noise standards when accounting for the current noise baseline from the 72 wind turbines currently operating in the Town.

4. *19 NYCRR §900-8.4(c)(1)(iv)—Statement of whether the petition is for full party or amicus status:* The Town is requesting full party status. Pursuant to 19 NYCRR §900-8.4(b), the Town qualifies as a full party to this proceeding because they were consulted during the pre-application process pursuant to 19 NYCRR §900-1.3(a) and the proposed Facility will be located partially within the Town.

5. *19 NYCRR §900-8.4(c)(1)(v)—Identification of the precise grounds for opposition or support:* The Town does not oppose the proposed Facility. However, the Town is concerned that the

Facility, as proposed, may cause noise levels in certain areas of the Town that exceed ORES and Town standards for non-participating residents when accounting for the actual noise generated by the existing 72 wind turbines located in the Town. As discussed in detail below, the cumulative noise assessment for the proposed Facility should be updated to obtain appropriate data related to the current noise conditions from the 72 wind turbines currently operating in the Town to ensure the cumulative impact of the proposed Facility does not exceed ORES and Town noise standards.

Standards for Issue Adjudication

6. ORES regulations set forth the standards for determining of whether or not issues are subject to adjudication.³ Specifically, an issue will be deemed adjudicable if, among other reasons, issues related to a facility's compliance with local laws and regulations⁴ or public comments provided by a municipality on a draft siting permit condition published by ORES raise a substantive and significant issue.⁵

7. An issue is considered substantive "if there is sufficient doubt about the applicant's ability to meet statutory or regulatory criteria applicable to the project, such that a reasonable person would require further inquiry."⁶ The compliance of the Facility with ORES regulations is in question in consideration of the actual cumulative noise impacts of the existing 72 wind turbines located in the Town with the proposed Facility.⁷ Thus, non-compliance with ORES regulations should be considered a substantive issue because it raises into question the project's ability to comply with applicable regulatory criteria.

³ See, 19 NYCRR §900-8.3

⁴ 19 NYCRR §900-8.4(d)

⁵ 19 NYCRR §900-8.3(c)(1)(ii)

⁶ 19 NYCRR §900-8.3(c)(2)

⁷ 10 NYCRR §90-6.3(a)

8. An issue is significant “if it has the potential to result in the denial of a siting permit, a major modification to the proposed project or the imposition of significant permit conditions in addition to those proposed in the draft permit, including uniform standards and conditions.”⁸

9. To demonstrate an issue is substantive and significant, such an assertion must be supported by “[a]n offer of proof specifying the witness(es), the nature of the evidence the person expects to present and the grounds upon which it is made.”⁹

Substantive and Substantial Issues for Adjudication

10. Pursuant to 19 NYCRR §900-8.4(c)(2), the Town hereby identifies the following issue regarding the proposed Facility as meeting the criteria for adjudication provided in 19 NYCRR §900-8.3(c), and respectfully request that an adjudicatory hearing be held on the issue. Because the issues are related, the Town supports the petition of Town resident Marty Oehlbeck, filed on January 23, 2024 at Item No. 142 (the “Oehlbeck Petition”) concerning cumulative noise impacts at Mr. Oehlbeck’s property.

11. As set forth in the pre-filed testimony of the Town’s noise consultant Damien Bell of SLR Engineering (“SLR”), annexed hereto as Exhibit B (“Bell Testimony”), the Town does not object to the methodology described in the noise study and the conclusion of the Noise Study that the noise generated by the proposed Facility is compliant with ORES and Town noise standards. Bell Testimony at 3.

12. However, the Noise Study identifies several non-participating residences where cumulative sound from Cohocton Wind, Barron Winds Phase I, and Prattsburgh Wind reach or slightly exceed the 45 dBA Leq(8hour) 94-c limits. Bell Testimony at 4-5. SLR recommends that these areas be given closer examination because Dutch Hill, Cohocton Wind, and Baron Winds Phase I are now operational, which was not the case when Epsilon conducted site sound monitoring in 2019 and 2020. Bell Testimony at 5. In particular, it is not clear that cumulative noise modeling for Cohocton Wind and

⁸ 19 NYCRR §900-8.3(c)(3)

⁹ 19 NYCRR 900-8.4(c)(2)(ii)

Barron Winds Phase I used the turbine models that are currently installed and operating. Bell Testimony at 5. In addition, the re-powering of the Dutch Hill and Cohocton Winds project occurred in late 2021 and Barron Winds Phase I began commercial operation in February 2023, but the baseline sound monitoring for the Noise Study was conducted in 2019 and 2020, thus tainting the use of the baseline study contained in the Application for the cumulative impact assessment. Bell Testimony at 5. Because the other projects are now operational, on-site operational sound measurements are possible and preferable to the use of modeling for the noise contribution from these facilities. Bell Testimony at 5.

13. To appropriately establish the noise contribution from the Cohocton Winds and Barron Winds project, Mr. Bell recommends that for non-participating Town of Cohocton receptors where expected Cumulative sound levels from the Prattsburgh Wind, Cohocton Wind, and Barron Winds Phase I projects are at or above 45 dBA Leq (8-hour), and the contributions from Prattsburgh Wind are not minor (are within 10-dBA of 45 dBA), that ambient sound measurements be used to quantify the current Barron Winds and Cohocton Winds contributions. Bell Testimony at 5-6. In particular, a sound measurement survey during “leaf on” conditions is recommended, while the Cohocton Wind and Barron Winds Phase I turbines are operational, as the following locations (Bell Testimony at 5-6):

- i. Receptor 1963 near Van Aucker Road
- ii. Receptors 434/397 at end of Pawling Road (a single measurement location would suffice)
- iii. Receptor 310 (Keeler Road/Tuttle Road)
- iv. Receptor 429 (Co Road 55)

14. Using the findings from the ambient sound survey, the cumulative wind turbine sound level calculations should be revised at the locations of interest to confirm the contributions from Prattsburgh Wind will not cause the noise at non-participating receptors to exceed ORES and Town standards. Bell Testimony at 6.

15. The concerns raised by Mr. Oehlbeck are similar to Mr. Bells observations with regard to the changes occurring since the baseline sound monitoring was conducted in 2019 and 2020. Bell Testimony at 7. The Town shares Mr. Oehlbeck's concerns and supports he Oehlbeck Petition.

16. Accordingly, the Town respectfully requests that the sound survey recommended by Mr. Bell be conducted and the cumulative impact study updated prior to the issuance of any permit for the proposed Facility to ensure that no changes to the proposed Facility are necessary for it to comply with the ORES and Town noise standards.

Dated: March 5, 2024

Respectfully Submitted,

Rochester, New York

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EXHIBIT A

**Application of Prattsburgh Wind, LLC for a
94-c Permit for Major Renewable Energy Facility**

ORES DMM MATTER NO. 21-00749

STATEMENT OF COMPLIANCE WITH LOCAL LAWS AND REGULATIONS

TOWN OF COHOCTON

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Introduction

Pursuant to 19 NYCRR §900-8.4(d) and the Combined Notice of Availability of Draft Permit Conditions, Public Comment Period and Public Comment Hearing, and Commencement of Issues Determination Procedure, dated December 29, 2023, the Town of Cohocton (“Town”) hereby submits its Statement of Compliance With Local Laws and Regulations (this “Compliance Statement”) in this proceeding. This Compliance Statement assesses whether the facility (the “Facility”) proposed by applicant Prattsburgh Wind, LLC (“Applicant”) for the construction and operation of a wind-powered electric generating project is designed to be sited, constructed and operated in compliance with the substantive requirements of the Town’s laws and regulations applicable to the Facility concerning the environment or public health and safety. For the purpose of this assessment, the Town has assumed that the Facility will be constructed and operated in a manner as presented in the application, as amended and supplemented (the “Application”), for the Facility deemed complete on October 30, 2023 by the New York State Office of Renewable Energy Siting (“ORES”). The Town has also assumed that the Facility will be required to operate within the terms and conditions of the Draft Permit for a Major Renewable Energy Facility issued by ORES for the Facility on December 29, 2023 (the “Draft Permit”).

The Town local laws currently applicable to substantive requirements for the Facility are the following:

- Local Law No. 1 of 2002: Zoning Law of Town of Cohocton, New York, as amended by Local Law No. 2 of 2006, Amending the Zoning Law of the Town of Cohocton, New York, to regulate windmills and wind facilities, as further amended by Local Law No. 1 of 2011, and as further amended by Local Law No. 4 of 2019 (collectively, the “Zoning Law”)
- Local Law No. 1 of 1987: Flood Damage Prevention

The above local laws were filed in this proceeding on August 31, 2023 as part of Appendix 24-A, Revision 2.

Assessment of Compliance Local Laws

Pursuant to the Wind Law, absent the provisions of Executive Law §94-c, the Applicant would be required to obtain approval of a special use permit and site plan approval from the Town Planning Board to construct and operate the Facility. Town officials and the Town's consultant team, including LaBella Associates, SLR Engineering, Landscape Architecture, and Land Surveying, P.C. (noise assessment), Town Attorney David Miller, Esq., and Knauf Shaw LLP, reviewed the Application and Draft Permit for compliance with the substantive requirements of the Zoning Law and other applicable local laws concerning the environment and public health and safety. The Town finds that the Facility complies with the Town's local laws and regulations except for the matters discussed below.

1. Zoning Law § 1130(2)(b): Maximum Height Limit

The 2019 Amendment to the Zoning Law increased the maximum height limit for Industrial Windmills from 500 feet to 650 feet. Zoning Law § 1130(2)(b); Local Law. No. 4 of 2019 (the "Town Height Limit"). The Applicant maintains that it needs flexibility to design the Facility to include turbines exceeding 650 feet in height, with three of the seven turbines currently under consideration exceeding 650 feet and the tallest being 668 feet. The Draft Permit waives the Town Height Limit, allowing a total wind turbine height of 668 feet. Of note, four of the seven turbines under consideration have a total height of less than 650 feet. If one of the three wind turbines with a total height exceeding 650 feet is selected, the Facility will be non-compliant with the Town's Zoning Law because it exceeds the maximum height limit.

The Town's rationale for increasing the allowable maximum height limit to 650 feet was a recognition that taller wind turbine technology had been proven to be more efficient so that "the utilization of taller turbine technology will require fewer turbines to collect the same amount of energy, thereby reducing overall potential environmental impacts." Local Law. No. 4 of 2019, § 2. Unfortunately for the residents of the Town, this accommodation to technology has not resulted in the desired effect

and the number of turbines located in the Town has expanded from 50 in 2019 to 72 today with another 6 proposed by Prattsburgh Wind. Should the Facility be permitted, absent a significant difference in cost or performance, the Facility should be required to select wind turbines that are compliant with the Town's maximum height limit of 650 feet.

2. Zoning Law § 1130(2)(b)(vii)—Undergrounding of Transmission/Distribution Lines

Section 1130(2)(b)(vii) of the Zoning Law¹ requires for Industrial Windmills that “[a]ll power transmission distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facilities to the collection station. All other circumstances would be reviewed during the site plan process.” The Town interprets this provision to require, in the instance of a local approval process, undergrounding of all transmission and distribution lines up to the collection station and that situations where other circumstances arise would be left to the discretion of the Planning Board during the site plan review phase to consider exceptions to undergrounding. Of note, none of the existing 72 wind turbines constructed and operating in the Town required an exception from the undergrounding requirement.

The Applicant has requested a waiver of the Town's undergrounding requirement with regard to about 2.47 miles of overhead collection lines in the Town to avoid impacts to wetlands and streams and to traverse steep slope areas. While the Facility does not comply with the Town's undergrounding requirement, based on the Town's review of the request, it is of the opinion that the Planning Board would have consented to permitting a limited exception to the undergrounding requirements because the overhead lines solely traverse participating properties, the visual impacts from the transmission lines are not substantial in the context of the significant impacts caused by the wind turbines themselves, and the

¹ Note the Statement of Justification for Local Law Waiver Requests (Appendix 24-B) incorrectly refers to Zoning Law § 1130(2)(b)(iv) when referring to the Town's undergrounding requirements and Exhibit 24 and the Draft Permit, in issuing a waiver of the Town's undergrounding requirement in Section 4(b)(2), refers to Zoning Law § 1130(2)(b)(vi). Both are in error.

proposed use of overhead lines avoids adverse environmental impacts to wetlands, streams, and forested areas.

3. Zoning Law §§ 320 and 409: Structure Height Limitation

Zoning Law § 300(3)(a) requires that “[n]o building or other structure shall hereinafter be erected or altered...to exceed the height or bulk;... or in any other manner contrary to the provisions of [the applicable Zoning District regulations].” The Facility is proposed to be located in an AG-R Zoning District. The Zoning Schedule for AG-R districts in Zoning Law § 320 requires that for “[a]ll other permitted uses” the maximum height for “Building Height” is 35 feet.

Exhibit 24 to the Application states “there are four structures [the “Proposed Structures”] associated with the [Point of Interconnection] substation, one structure associated with the collection substation, and eight pole structures associated with the interconnection loop transmission lines in the Town of Cohocton, all of which are above 35 feet in height. In addition, there are four overhead collection line segments within the Town of Cohocton. Within these four segments, 44 pole structures are proposed to be above 35 feet in height.”² In its Statement of Justification for Local Law Waiver Requests (“Justification Statement”), the Applicant requested that ORES issue a determination that that the 35-foot height limitation in the Town of Cohocton Zoning Law, Section 320, is not applicable to the Proposed Structures.³ In response, ORES issued a waiver of the Town’s 35 foot height limitation for the Proposed Structures.

The 35 foot height limitation applies to “buildings or other structures” and the height limitation is expressed in terms of the “building height.”⁴ “Building Height” is defined as the “vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers,

² Exhibit 24 at 4.

³ Justification Statement at 29.

⁴ Zoning Law § 320.

tanks and similar projections.” A “building” is defined as “[a]ny structure which is permanently affixed to the land, has one or more stories and a roof, and is intended for the shelter, housing or enclosures or persons, animals or chattel.”⁵ A “structure” is “[a]nything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground” including, among other things, structures include “buildings, mobile homes, walls, fences, signs, storage tanks, billboards and poster panels.”⁶ Based on this assessment, the Proposed Structures are “structures” that are subject to the 35-foot height limitation. While Zoning Law § 409 provides for exceptions to the height requirements for “spires, belfries, cupolas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy,” the term “appurtenance” is not defined in the Zoning Law but the common dictionary meaning is “accessory objects.”⁷ Taken together, the Section 409 exceptions to the height requirement relate to structures that are an accessory to a building, so the Section 409 exception to the 35-foot height requirement does not apply to the Proposed Structures.

However, Section 1010(3) defines “Windmill Facilities” to be “infrastructure related to ... Industrial Windmill, or a series of Windmills, including electrical lines and substations, access roads and accessory structures necessary to operate said windmill and transmit the electrical power which is generated.” The Design Standards for Industrial Windmills in Section 1030(2)(a)(viii) include for “Substations and/or Switch yards and connecting Distribution/Transmission Lines” that the “Planning Board shall review locations and visual considerations at time of site plan approval.” Taken together, if the Facility were being considered for approval by the Town Planning Board for a special permit and site plan approval, the Proposed Structures would be considered to be part of the “Windmill Facilities,” and the Planning Board would “review locations and visual considerations [of Substations and/or Switch yards

⁵ Zoning Law § 1010.

⁶ *Id.*

⁷ Meriam-Webster Dictionary: <https://www.merriam-webster.com/dictionary/appurtenance>

and connecting Distribution/ Transmission Lines] at time of site plan approval.” Zoning Law § 1030(2)(a)(viii). Thus, while Section 409 of the Zoning Law does not provide for an exemption for the Proposed Structures from the Section 320 building height requirement, the provisions of Section 1030(2)(a)(viii) provide for a project specific review of substations and connecting distribution and transmission lines by the Planning Board, considering the relevant locations and visual considerations. In this context, the Proposed Structures are compliant with the Zoning Law because the Planning Board would reasonably conclude that the Proposed Structures are the minimum height necessary given the applicable engineering and electrical codes. No waiver of the Section 320 height requirement is necessary from ORES.

Dated: March 5, 2024

Respectfully Submitted,

KNAUF SHAW LLP

/s Dwight E. Kanyuck
Dwight E. Kanyuck, Esq.
Partner

EXHIBIT B

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of the Application of Prattsburgh Wind, LLC
for a 94-c Permit for Major Renewable Energy Facility

ORES Docket No. 21-00749

Administrative Law Judges:
Hon. Dawn MacKillop-Soller
Hon Christopher McEneny Chan

Pre-Filed Testimony of:

Damien Bell
Senior Acoustical Engineer
SLR Engineering, Landscape Architecture, and Land Surveying, P.C.
231 Main Street, Suite 102
New Paltz, New York 12561

1 **Q: Please state your name, employer, and business address.**

2 A: My name is Damien Bell. I am employed by SLR Engineering, Landscape
3 Architecture, and Land Surveying, P.C. (“SLR”), which has a business
4 address of 231 Main Street, Suite 102, New Paltz, New York 12561.

5 **Q: What is your position at SLR?**

6 A: I am a senior acoustical engineer.

7 **Q: How long have you been employed at SLR?**

8 A: Since July 2021.

9 **Q: Please describe your educational background and professional
10 experience.**

11 A: I have a bachelor of science in Mechanical Engineering with a Contration
12 in Acoustics at the University of Hartford. I have 19 years of experience
13 working on a wide range of projects related to environmental and
14 indoor/architectural acoustics, including extensive experience conducting
15 acoustic laboratory testing, indoor acoustical evaluations, sound
16 propagation modeling, and developing noise control recommendations. I
17 have completed over 200 investigative studies for power plants, substations,
18 pipeline pumping stations, gas compression facilities, mining, and
19 pharmaceutical production. Please refer to my curriculum vitae, attached
20 as Exhibit A.

1 Q: **Have you previously participated in proceedings before the Office of**
2 **Renewable Energy Siting (ORES)?**

3 A: I have commented on noise studies on behalf of municipalities in the ORES
4 proceedings related to South Ripley Solar and Heritage Wind project
5 applications. I have also been involved in many in-person meetings with
6 NYS PSC engineering staff and attorneys, focusing on interpretation of
7 noise-related policy for the re-powering of a large combined cycle-power
8 plant.

9 Q: **Have you previously served as an expert witness before any other court,**
10 **agency, or other body on the subject you plan to offer testimony on**
11 **today/?**

12 A: I have provided noise-related expert testimony to town boards in New
13 Jersey and Pennsylvania.

14 Q: **What is the purpose and scope of your testimony in this proceeding?**

15 A: On behalf of the Town of Cohocton (Town), I am providing my opinions
16 and recommendations with regard to the cumulative noise assessment
17 prepared for the proposed Prattsburgh Wind project and submitted by
18 Prattsburgh Wind LLC (the “Applicant”). The cumulative noise assessment
19 evaluates the impact to residents of the Town from the Prattsburgh Wind
20 project in addition to the existing wind energy generating projects located

1 in the Town, including the Baron Wind, Cohocton Wind, and Dutch Hill
2 wind energy generating projects.

3 **Q: What materials and studies did you review or otherwise rely on in**
4 **providing your testimony?**

5 A: I reviewed all relevant updated noise reports and addenda submitted by the
6 Applicant’s acoustical consultant Epsilon Associates (“Epsilon”), including
7 Exhibit 7 Noise and Vibration document and the unredacted Sound Level
8 Impact Assessment in Appendix 7-A, revised August 23, 2023 (collectively
9 the “Noise Study”). I also reviewed the Petition for Party Status submitted
10 by Marty Oehlbeck, filed on January 23, 2024 at Item No. 142 (the
11 “Oehlbeck Petition”) concerning cumulative noise impacts at Mr.
12 Oehlbeck’s property.

13 **Q: What is your overall opinion of the Noise Study?**

14 A: The methodology described in the Noise Study followed accepted
15 engineering practices (ANSI, ISO) to the best extent practicable. The report
16 data tables, plots, figures, and narrative descriptions meet the requirements
17 for an Exhibit 7 submittal.

18 **Q: What is your opinion of the noise model used to prepare the Noise**
19 **Study?**

20 A: Epsilon developed a three-dimensional sound propagation model (“noise
21 model”) of the Prattsburgh Wind project to include major noise-emitting

1 equipment. The model was developed using CadnaA, which is an industry-
2 standard sound propagation modeling program that accounts for site
3 topography, obstacles, and attenuation effects. CadnaA follows the ISO-
4 9613-2:1996 propagation standard, “Acoustics – Attenuation of Sound
5 During Propagation Outdoor-Part 2: General Method of Calculation”,
6 which is cited in the 94-c regulation. Based on SLR’s extensive experience
7 using CadnaA, Epsilon used conservative assumptions in the modeling,
8 which means that calculated sound levels are likely higher than what will
9 actually occur.

10 **Q: What is your opinion of the results of the Noise Study as it relates to**
11 **noise generated by the Prattsburgh Wind project?**

12 **A:** Sound levels attributable to the Prattsburgh Wind equipment were shown to
13 be at or below the applicable threshold limits, per Section 94-c of the New
14 York State Executive Law. Sound levels attributable to the Prattsburgh
15 Wind equipment were also shown to be at or below the noise requirements
16 of the Town of Cohocton Zoning Law.

17 **Q: What is your opinion of the cumulative noise assessment conducted in**
18 **the Noise Study?**

19 **A:** The Epsilon report identifies a small number of non-participating receptors
20 where cumulative sound from Cohocton Wind, Barron Winds Phase I, and
21 Prattsburgh Wind reach or slightly exceed the 45 dBA Leq(8hour) 94-c

1 limits. Though the noise modeling methodology used by Epsilon is fairly
2 conservative, SLR recommends that these areas be given closer
3 examination. Both Cohocton Wind and Barron Winds Phase I are now
4 operational, which was not the case when Epsilon conducted site sound
5 monitoring in 2019 and 2020. In particular, it is not clear that Cumulative
6 noise modeling for Cohocton Wind and Barron Winds Phase I used the
7 turbine models that are currently installed and operating. In addition, the
8 re-powering of the Cohocton Winds project occurred in late 2021. Baron
9 Winds Phase I began commercial operation in February 2023. Epsilon
10 Associates performed baseline sound monitoring in 2019 and 2020.
11 Because the two other projects are now operational, onsite operational
12 sound measurements are possible and preferable to the use of modeling for
13 the noise contribution from these facilities.

14 **What do you recommend with regard to the cumulative impact noise**
15 **assessment for the Prattsburgh Wind project?**

16 For non-participating Town of Cohocton receptors where expected
17 Cumulative sound levels from the Prattsburgh Wind, Cohocton Wind, and
18 Barron Winds Phase I projects are at or above 45 dBA Leq (8-hour), and
19 the contributions from Prattsburgh Wind are not minor (are within 10-dBA
20 of 45 dBA), we recommend that ambient sound measurements be used to
21 quantify the current Baron Winds and Cohocton Winds contributions. SLR

1 recommends a sound measurement survey during “leaf on” conditions,
2 while the Cohocton Wind and Barron Winds Phase I turbines are
3 operational. We recommend measurements at the following locations:

- 4 i. Receptor 1963 near Van Aucker Road
- 5 ii. Receptors 434/397 at end of Pawling Road (a single
6 measurement location would suffice)
- 7 iii. Receptor 310 (Keeler Road/Tuttle Road)
- 8 iv. Receptor 429 (Co Road 55)

9 Before the survey begins, it should be confirmed that all existing turbines
10 are dispatchable, functioning properly, and not undergoing any major
11 repairs or maintenance. A “leaf-on”, warm-weather survey (May, June,
12 July, August, or September) is recommended. We also recommend that the
13 Applicant submit a brief (3 to 4 page) sound measurement survey protocol
14 to the Town in advance of the survey.

15 Using the findings from the long-term operational ambient sound survey,
16 the cumulative wind turbine sound level calculations should be revised at
17 the locations of interest to confirm the contributions from Prattsburgh Wind
18 will not cause the noise at non-participating receptors to exceed ORES and
19 Town standards.

20 **Q: What is the relationship between your recommendation and the**
21 **concerns raised in the Oehlbeck Petition?**

1 A: The concerns raised by Mr. Oehlbeck are similar to my observations with
2 regard to the changes occurring since the baseline sound monitoring was
3 conducted in 2019 and 2020. Mr. Oehlbeck's property is among those
4 Town of Cohocton receptors where expected Cumulative sound levels from
5 the Prattsburgh Wind, Cohocton Wind, and Barron Winds Phase I projects
6 approach 45 dBA Leq (8-hour). By conducting the sound measurement
7 survey I recommend in this testimony, the expected impact to Mr.
8 Oehlbeck's property can be evaluated more definitively. In particular, the
9 sound measurement I recommend at Receptor 1963 would significantly
10 inform the potential impact to Mr. Oehlbeck's property, because receptor
11 1963 is impacted by contributions from the same Baron Winds and
12 Cohocton Wind noise sources and is modeled to have a greater impact from
13 these sources than Mr. Oehlbeck's property.

14 Q: **Does this conclude your testimony?**

15 A: Yes.

DAMIEN BELL

Senior Acoustical Engineer



YEARS OF EXPERIENCE

- 1 With This Firm
- 16 With Other Firms

EDUCATION

- BS, Mechanical Engineering with Concentration in Acoustics
University of Hartford
- BA, English/Rhetoric
State University of New York,
Binghamton

TECHNICAL REGISTRATIONS

- Institute for Noise Control Engineering of the USA (INCE-USA)
- Acoustical Society of America

Mr. Bell supports consulting and engineering efforts related to Acoustics and Noise Control. He has 17 years of experience working on a wide range of projects related to environmental and indoor/architectural acoustic. Mr. Bell has extensive experience conducting acoustic laboratory testing, indoor acoustical evaluations, sound propagation modeling, and developing noise control recommendations. He has completed over 200 investigative studies for power plants, substations, pipeline pumping stations, gas compression facilities, mining, and pharmaceutical production.

SELECTED PROJECT EXPERIENCE

- **Waldorf Astoria Hotel | New York, NY**
Multi-year acoustical design support for a combined heat and power (CHP) installation above the hotel grand ballroom. Analyzed airborne sound transmission from the mechanical room to guest suites and the ballroom. Specified wall acoustical wall assemblies to meet noise criteria.
- **Combined Cycle Power Plant Noise Permitting | Long Island, NY**
Provided a wide range of acoustical consulting services as part of a comprehensive noise impact study for a proposed power plant re-powering. Services included sound propagation modeling, community sound monitoring, and detailed review of applicable noise regulations. Worked with project developers to present various noise mitigation designs to the permit-granting regulatory agencies.
- **Novo Nordisk DAPI-US | Clayton, NC**
Provided a full range of acoustical consulting services during the design and construction of a new Diabetes Active Pharmaceutical Ingredient (DAPI) production facility. Outdoor and indoor sound models were developed to address community noise and in-plant worker noise exposure. Worked with the engineering, procurement, and construction contractor to specify equipment noise performance, optimize site layouts, and develop noise mitigation.
- **Shooting Range Noise Modeling | States of New York and Illinois**
Sound monitoring at residences near private shooting ranges. Developed mitigation to limit annoyance complaints from residents. Findings were used to resolve legal disputes between parties. Assisted in drafting a development agreement between the range and the local municipality related to a planned expansion of the range.
- **Power Plant Noise Compliance Testing | State of New York**
Conducted several weeks of ambient measurements at a residence located

near an operating power plant. Diagnostic measurements and computer modeling were used to determine that noise levels attributable to plant operation were compliant with limits required by the New York State Department of Public Service.

- **Syracuse CSD: Bellevue Elementary School LEED Acoustics | Syracuse, NY**
Performed sound measurements within over 40 classrooms during commissioning of a new HVAC system. Findings determined compliance with the LEED Minimum Acoustic Performance prerequisite limit of 40 dBA. Recommendations were provided for reducing sound levels in two rooms exceeding the LEED limit.
- **Traffic Noise Modeling for Residential Developments | Northern Virginia and Westchester, NY**
Extensive use of the Traffic Noise Model (TNM) to determine noise impacts at several planned residential development projects. Created and validated TNM models using sound measurement and traffic count data. Worked with developers and architects to determine appropriate site layouts and to specify acoustic performance for building façades. Used TNM to design noise barrier locations and heights when required.
- **PSE&G Power Plant Study | Glenmont, NY**
Conducted extensive sound measurements at a combined-cycle power plant, before and after performance upgrades on the gas turbine. The measurement data were presented to acoustical engineering staff at New York State Department of Public Service, as evidence that increasing the turbine capacity would not increase sound levels in the local community.
- **Colonial Pipeline: Noise Mitigation | Centreville, VA**
Optimized a noise barrier design to guarantee site-wide compliance with a stringent, octave-band noise ordinance. Developed a noise model of an existing pipeline pump station located in a residential neighborhood. The successful design achieved regulatory compliance at all 35 discrete property line locations. Worked with the client during all phases of a three-year permitting process.
- **Dominion Virginia Power Substations | Arlington, VA**
Performed environmental noise impact assessments for ten electrical substations throughout northern Virginia. Worked with the client to develop noise mitigation for maintaining compliance with local noise ordinances.
- **William Gas: Gas Compression Stations Sound Modeling | Tioga and Bradford Counties, PA**
Performed comprehensive sound measurement surveys of several natural gas compressor stations. Diagnostic near-field measurements were conducted to develop sound propagation models of the sites. Modeling results were validated with far-field sound measurements at property-line locations. Modeling was used to predict future sound levels for hypothetical changes in site configuration or equipment.
- **Newark Energy Combined Cycle Power Plant | Newark, NJ**
Conducted a post-construction sound survey to determine whether sound levels from the operational power plant were in compliance with the New Jersey noise code. Performed equipment-specific sound measurements to confirm that vendor noise guarantees were being met.
- **Substation and Static VAR Upgrades (Confidential Client) | State of New Jersey**
Developed computer noise modeling and performed post-construction sound measurements for a substation upgrade. The analysis was conducted as part of a permitting effort. Prepared technical reports and public presentations to discuss expected noise impacts.