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VIA EMAIL

Hon. Michelle L. Phillips (secretary@dps.ny.gov)
Secretary to the Commission
New York State Public Service Commission

**Re: Case No. 17-F-0282 – Alle-Catt Wind Energy LLC;
Supplemental comments on Petition**

Dear Secretary Phillips:

On behalf of the Coalition of Concerned Citizens, please accept these supplemental comments and accompanying technical comments by Rand Acoustics regarding a petition to amend its Certificate by Alle-Catt, filed on January 27, 2026.¹ The petition requests that Certificate Condition 68(d)(vi), which requires preconstruction noise modeling to demonstrate that a noise goal of 40 dBA L(night) averaged over one year will be met during operations, be deleted from the Certificate. On March 24, 2026, the Siting Board issued a notice requesting comments on the petition by May 8. On March 17, 2026 the Siting Board issued a letter ruling that, if approved, removing preconstruction a night noise goal would not have a significant impact on residents.² On April 2, 2026 the Coalition filed a complaint, motion for reconsideration and comments on Alle-Catt's amendment petition and the Siting Board's March 17 determination.³

In our April 2 comments, we were unable to comment on an April 1, 2026 filing by Alle-Catt of a revised Preconstruction Noise Impact Assessment (PNIA), dated March 24, 2026.⁴ Ostensibly filed in support of Alle-Catt's Minor Change Request No. 17, regarding inverter noise at the project substation, the March 24 PNIA also addresses the night noise goal.

The accompanying Rand Acoustics comments show that, contrary to the March 24 PNIA, the annual average night noise level will exceed 40 dBA by several decibels. Projected exceedences are more than the 2 dB improperly deducted from model results in previous versions of the PNIA. An improper ground absorption factor allowed previous versions of the PNIA to deduct 2 dB from its model results, as Rand Acoustics demonstrated with its April 2 comments.

We reiterate that because Alle-Catt has not provided the inputs to its noise model, how it arrived at its results remains hidden. On April 2 I requested by email to counsel for Alle-Catt Mr. Dax an unredacted copy of the March 24 PNIA, noting that both myself and Mr. Rand have filed confidentiality agreements in this matter. Our hope was that inputs to the PNIA noise model would

¹ DMM No. 756.

² DMM No. 868.

³ DMM No. 802.

⁴ DMM No. 880 (filename: HEI - Pre-Construction Noise Analysis for ACWE 20260324 w. appendices – REDACTED).

be revealed. However, Mr. Dax never responded to my request.

In addition to the accompanying supplemental comments by Rand Acoustics, I offer the following comments on how the Siting Board should balance its interest in protecting residents from excessive nighttime noise with the Board's interest in the environmental benefits of the project. The coalition shares both interests. This discussion should inform the Board's decision about whether to amend Alle-Catt's Certificate by removing Certificate Condition 68(d)(vi).

Alle-Catt's inability to provide promised benefits by delivering its energy downstate remains a serious concern. The Alle-Catt project's benefits depend on the ability to deliver its energy where it is needed, and thereby reduce downstate emissions, as the Board acknowledged:

We agree with CCC and ACWE that the record establishes that there are transmission constraints between upstate and downstate. We also agree that these constraints will need to be resolved at some time in the future if the State is to receive the full benefits of renewable energy projects that are sited upstate.⁵

In its Certificate Order, the Siting Board adopted "the Recommended Decision's optimism that the transmission issues between upstate and downstate can and will be resolved".⁶ In part, this decision was based on Alle-Catt's energy systems expert who described the "evolving nature of the transmission system and the NYISO's processes for addressing transmission needs and proposals for meeting them."⁷ In part, the Board relied on "the recently enacted Accelerated Renewable Energy Growth and Community Protection Act [AREGCPA], which includes measures to expedite transmission upgrades."⁸ In part, the Board relied on the policy of Article 10, as recommended by the Hearing Examiners, which encourages "the provision of renewable energy to the regional market, the diversification of New York's generation mix, and the reduction of greenhouse gas emissions."⁹

In the nearly six years since the decision, no progress has been made in expediting new transmission capacity to deliver Alle-Catt's electricity to downstate demand centers where it is needed. Upstate, where Alle-Catt's electricity will remain bottled for the foreseeable future, lacks such demand.¹⁰ Almost 90% of the region's electricity is already carbon-free while downstate the number is 5%.¹¹ The benefit of more renewable energy to the regional market therefore remains very limited. Because its electricity generation will be bottled upstate, it is likely that operation of

⁵ *Id.*, 83.

⁶ Cert. Order, 84.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*, 82.

¹⁰ Micron Technology has proposed a major microchip factory in Manlius, New York, selecting that site because it can rely on reliable nuclear power (not large-scale renewable energy projects). Nuclear Newswire, "Senate committee discusses growing energy demands, nuclear's role" (May 22, 2024), available at <<https://www.ans.org/news/article-6066/senate-committee-discusses-growing-energy-demands-nuclears-role/>>.

¹¹ NYISO, *Power Trends 2025*, 45, available at <<https://www.nyiso.com/power-trends>>.

Alle-Catt will displace other renewables and hydropower, an outcome at odds with the state's emissions reduction goals—the *sine qua non* of the state's energy policy. For the same reason, diversifying the fuel mix, Alle-Catt can be expected to provide little emissions benefit.¹² Because there has been no progress on upstate-downstate bulk transmission capacity, and because there is no plan to increase that capacity, there is no basis to assume that Alle-Catt's electricity will ever be able to be delivered downstate.

The AREGCPA supports this conclusion. Recognition of the time it will take to plan, schedule and implement transmission upgrades is apparent in the Act: “The state distribution and local transmission upgrade programs [to be studied by PSC] shall establish a prioritized schedule *upon which each such upgrade shall be accomplished*.”¹³ Section 2 of the Act requires PSC to undertake “a comprehensive study for the purpose of identifying distribution upgrades, local transmission upgrades and bulk transmission investments that are necessary or appropriate to facilitate the timely achievement of the CLCPA targets”, and PSC “may consider such issues it determines to be appropriate”. The Act, at Section 7, provides details for the required planning process, termed the “State power grid study and program to achieve CLCPA targets”. However, to date a long-distance transmission program has yet to emerge from this Legislative mandate.

It cannot reasonably be concluded that, without the ability to deliver its electricity downstate, Alle-Catt's benefits are of such magnitude and certainty that they outweigh the certain environmental destruction caused by the project. Based on the evidentiary hearing, the Hearing Examiners' Recommended Decision estimates “the operational impacts of the Facility on bird mortality, in general, to be between 480 and 515 bird fatalities annually”,¹⁴ including “six State-listed birds”, listed as threatened or endangered.¹⁵ At least 41 bald eagle fledglings (a seventh State-listed bird) will be killed by collision with moving wind turbine blades and nest failure over 30 years, attributed to one active nest within the project area, and there are “six other active breeding nests in close proximity”.¹⁶ Most of the turbines are proposed within areas classified by USFWS as “High Mortality Risk to Eagles”.¹⁷ Between 26,000 and 39,500 bats will be killed by the project over 30 years, including two species listed as threatened or endangered;¹⁸ the project would remove 1,550 acres of interior forest,¹⁹ and would fragment about 1,686 acres of unbroken forest that

12 Alle-Catt will be able to reduce natural gas fuel use upstate but not downstate, where natural gas fuel use is much greater. Because upstate fossil-fueled power plants are needed to back up intermittent renewables, Alle-Catt is unable to displace any of these plants.

13 AREGCPA § 3 (emphases added).

14 PSC Case 17-F-0282, Application of Alle-Catt Wind Energy LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for a Proposed Wind Energy Project, Located in Allegany, Cattaraugus, and Wyoming Counties, New York, in the Towns of Arcade, Centerville, Farmersville, Freedom, and Rushford, *Recommended Decision of the Hearing Examiners* (February 27, 2020), 75.

15 *Id.*, 55-56, 84.

16 *Id.*, 72-73.

17 Hrg. Tr. 1301-1302.

18 *Recommended Decision*, 58-59, 65. The application acknowledges that local bat populations will not survive the mortality rate caused by wind turbines. Alle-Catt Application, Exhibit 22 (“Terrestrial Ecology and Wetlands”), 26.

19 *Recommended Decision*, 25-26, 29.

would remain of the “approximately 5,900 acres of interior forest in the Facility site”,²⁰ and “the presence of wind turbines may: displace grasslands birds from otherwise suitable habitat; decrease nesting success; and change foraging behavior”, including for the threatened Upland Sandpiper.²¹ These findings are incorporated into the Siting Board’s final decision.²²

Since these findings, Alle-Catt has reconfigured the project by reducing the number of wind turbines from 116 to 83, and by moving some of the remaining turbines to address landowner concerns.²³ But Alle-Catt has been able to retain its original 340 MW generation capacity by using larger turbine blades that increase the wind-swept area by 20%.²⁴ This can be anticipated to increase avian mortality (birds, bats, insects) and noise, offsetting the reduction in environmental impacts that would otherwise be expected.

The state Department of Health testified that at the noise levels approved, the host communities would face a public health risk from wind turbine noise.²⁵ DOH also said exposure to shadow flicker more than 30 hours per year and 30 minutes per day would pose a public health risk.²⁶ The Siting Board rejected any per-day limit, and rejected the DOH recommended noise limit, ordering the noise and shadow flicker limits requested by the applicant.²⁷

It must be emphasized that nowhere in any of its application-phase filings or since has CCC contended that “modeling of future intermittent generation facilities as a whole over a long period of time” is needed to balance the burdens and benefits of the Alle-Catt project.²⁸ The Coalition’s concern has always been focused on currently available information to determine whether

20 *Id.*, 25. “Forest fragmentation occurs when large blocks of contiguous forest are divided or broken into smaller patches as a result of clearing or canopy removal. Fragmentation may affect the movement, breeding, roosting, or nesting behavior of birds and bats, and degrade overall habitat suitability.” *Id.*, 25.

21 *Id.*, 86.

22 Cert. Order, 4.

23 DMM No 618 (Alle-Catt, “Full Construction Notice to Proceed Compliance Filing Package Narrative”, 1, filed November 13, 2024).

24 Alle-Catt’s July 26, 2019 PNIA, reviewed during the evidentiary hearing, modeled noise from a GE 3.6-137 wind turbine with a hub height of 111.5 meters, noting that the rotor diameter for this turbine type is 137 meters (therefore, the wind swept area of the blades is 14,741 meters). See DMM No. 169 (filename: acwe_19h-1_Noise_Study_Report_Addendum.pdf), sec. 2.2 See also DMM No. 133 (filename: acwe_19d_noise specifications_for_GE36-137.pdf). The Vestas 4.5-150 turbine type was not considered in the 2019 PNIA. *Id.* According to Vestas, for the V150-4.5 MW turbine type currently proposed by Alle-Catt, the wind swept area is 17,671 meters. See Vestas, “4 MW Platform”, at 10, available at <https://www.vestas.com/content/dam/vestas-com/global/en/brochures/onshore/4MW_Platform_Brochure.pdf.coredownload.inline.pdf>.

25 DMM No. 291 (filename: Witness Affidavit Exhibit 1 - Alle Catt Expert Testimony NYS DOH Henry M. Spliethoff.pdf), 4:3-20 *et passim*. See also *id.*, 17:16-19 (“If restrictive noise limits drive energy production in New York to quieter wind farms or other forms of renewable energy with lower potential for annoyance in the population, that may be a desirable outcome with respect to public health.”).

26 *Id.*, 18:8-19:18. Cf. *id.*, 19:14-16 (“absent complaints, the applicant is not burdened by the requirement of meeting the 30 minutes per day limit at all nonparticipating receptors”).

27 Cert. Order, 65.

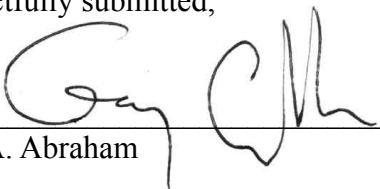
28 *Id.*, 84.

balancing the project's environmental impacts with its emissions benefits warrants the deference accorded Alle-Catt by the Hearing Examiners and the Siting Board.²⁹ Based on current information, there is no basis to believe that transmission constraints that prevent Alle-Catt from benefiting the state's emissions reduction goals will be resolved within the project's operational lifetime.

Nearly six years after the Certificate Order, the absence of transmission planning that would allow the State to receive the full benefits of the project anytime in the foreseeable future, together with the project's physical degradation of the regional environment, should be an important consideration when determining whether to remove any assurance that the communities forced to host the project will be protected from excessive nighttime noise. Indeed, achieving the State's renewable energy goals has always been a means to the primary goal of *reducing emissions*, a goal to which Alle-Catt cannot significantly contribute.

Despite the fact that project approval is no longer at issue in this case, the Board must nevertheless engage in "the complex balance of competing interests that must be made in generation siting cases."³⁰ Here, the interest in protecting residents from excessive nighttime noise should be deemed an interest to which the interest in Alle-Catt's energy and emissions benefits (which are meager) must yield.

Respectfully submitted,



Gary A. Abraham

gaa/encs.

cc: Party List (via DMM and e-mail)

²⁹ See, e.g., DMM No. 583 (August 5, 2024 Siting Board press release).

³⁰ *Id.*, 79.