



**Office of
Renewable
Energy Siting**

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GOVERNOR

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March 28, 2023

Alex Campbell
Hecate Energy Columbia County 1, LLC
621 W. Randolph Street
Chicago, IL 60661
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RE: Matter No. 21-02553 - NOTICE OF INCOMPLETE APPLICATION
Executive Law § 94-c Permit Application of Hecate Energy
Columbia County 1, LLC, for the proposed Shepherd's Run Solar
Project, located in the Town of Copake, Columbia County (60
MW Solar)

Dear Alex Campbell:

On May 9, 2022, a Notice of Incomplete Application (Notice) was issued by the Office of Renewable Energy Siting (the Office or ORES) after a preliminary review of the Permit Application submitted by Hecate Energy Columbia County 1, LLC (Applicant) on March 8, 2021, as amended and supplemented (the Application).

On September 27, 2022, a second Notice was issued by the Office after a review of the Application as supplemented by the Applicant on July 28, 2022.

In a letter dated December 20, 2022, the Applicant advised the Office that pursuant to 19 NYCRR § 900-4.1(f), it was assembling the information necessary to respond to the Office's September 27, 2022 Notice, and that additional time was required to respond to the Office's comments and requests for additional information (DMM Record No. 60). In this letter, the Applicant advised the Office that it expected to file its response on or about January 27, 2023. On December 22, 2022, the Office submitted a statement recommending approval of the request (DMM Record No. 62).

On January 27, 2023, the Applicant filed a supplement to the Application. Following review of this submission, the Office has determined that the Application, as supplemented, remains incomplete. A short list of the areas of incompleteness and a description of the remaining deficiencies is set forth in **Attachment A** to this letter, pursuant to 19 NYCRR § 900-4.1(d).

The Applicant should review the attached information and provide a supplemental response to the Office. The supplement should include both a clean and redline version of all updated exhibits, and a full set of plans submitted electronically with revisions clouded. The Application shall remain incomplete until all requested information is received by the Office, and a partial submission of the requested material shall not change the incomplete status in compliance with 19 NYCRR § 900-4.1(e). Failure to respond in writing to the Office's Notice may result in the Application being deemed withdrawn without prejudice in compliance with 19 NYCRR § 900-4.1(f).

Please note that the Applicant is required to serve a copy of its supplemental response on all entities entitled to receive a copy of the Application pursuant to 19 NYCRR § 900-1.6. The Office is committed to responding as expeditiously as possible to your complete supplemental response.

cc: Service List

ATTACHMENT A**Areas of Incompleteness and Description of Specific Deficiencies
ORES Matter No. 21-02553 Shepherd's Run Solar Project**

Based upon review of the supplemental Application materials filed on January 27, 2023, the following revisions are required to render a determination on application completeness:

Exhibit 3 - Location of Facilities and Surrounding Land Use

1. The Office acknowledges public comments, and Applicant's response to comments, concerning the "Taghkanic Headwaters Conservation Plan." Consistent with 19 NYCRR §§ 900-2.1(a), 900-2.4(h) and (i), please provide an appendix to Exhibit 3 to incorporate this Plan and the Applicant's written consistency analysis so that there is a cohesive response and analysis included in the Application. Please discuss the Applicant's avoidance, minimization, and mitigation measures specific to addressing the Plan's purpose to "protect forests for clean water and wildlife while meeting the needs of local communities and landowners." Additionally, please provide facts and/or figures discussing the limited amount of proposed clearing of forest areas in relation to those shown on Figures 6 and 7 of this Plan.

Exhibit 5 - Design Drawings

1. Pursuant to 19 NYCRR § 900-2.1(f), please provide GIS shapefiles and CAD files while ensuring consistency with all information provided in the existing or revised Exhibit materials. The Applicant's previous response was deficient, as detailed in Appendix A-1. A complete GIS and CAD submission is required.
2. Sheet C-102 illustrates that the substation does not meet the 100' buffer required by § 232-16.12(F) (6) (A) (2) of the Code of the Town of Copake (Copake Code). Please revise Exhibit 5 to comply with this local law.

3. The proposed Facility contains: grading in areas with erosion potential upland of water resources, wet and dry soil conditions, sheep grazing and apiary activities, existing naturalized vegetation in array areas with partial disturbance, and specific vegetation and seeding requirements under § 232-16.12(F)(6)(a)(10) and § 232-16.12(F)(6)(a)(19) of the Copake Code. The January 27, 2023 Comments on Second Deficiency Notice and the Revised Landscape Plans of Exhibit 5 propose different seed mixes. Staff finds that the Applicant has not sufficiently developed the proposed seeding plan to address all the items listed above. Please revise the Exhibits to clarify the proposed seed mixes, and discuss the establishment of native seed within existing naturalized ground cover and how the seed mixes will complement the proposed sheep grazing and apiary activities.
4. The January 27, 2023 Comments on Second Deficiency Notice stated "[t]he Applicant's professional engineering consultant reviewed the access drives throughout the Facility and confirmed that the project access road design complies with § 232-11(E)(3) and § 232-11(E)(4)." The documents provided in the Application materials lack the necessary information for the Office to determine compliance. Please update Exhibits 5, 8, and 16 and provide revised CAD and GIS shapefiles, to address the following:
 - a. Consistent with 19 NYCRR §§ 900-2.1(a) and 900-2.25(d), please *demonstrate* compliance with § 232-11(E)(3) and § 232-11(E)(4), using additional road profiles or enlarged grading plans, including the grading required to meet elevations at the existing "edge of pavement" or "street" and include the "edge of pavement" on the design plans.
 - b. Please *demonstrate* that the Facility will meet the site distance requirements in § 232-11(E)(5). Please provide documentation on the horizontal and vertical geometry at all intersections as required by 19 NYCRR § 900-

2.17(a)(1), including, but not limited to, driveway slope, lane widths, corner angle, radius, and cut/fill.

c. Please make any necessary adjustments to other Exhibits, including, but not limited to, Exhibit 8 photo simulation 46b.

d. Please adjust limit of disturbance (LOD) and acreage appropriately throughout the Exhibits.

5. Pursuant to 19 NYCRR § 900-2.16(d), please supplement Exhibit 5 design drawings to include tile drainage repair detail.

Exhibit 6 - Public Health, Safety and Security

1. The Applicant has demonstrated that parts of the Facility will be located in a FEMA mapped 100-year floodplain. Exhibit 24 states that the Applicant will comply with substantive provisions of the Town of Copake Flood Damage Prevention Law Chapter 135.

a. § 135-13(C)(1) requires "...equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding." Exhibit 24 states that "...the Applicant can store solar arrays horizontally during 100-year storm events, as needed to prevent water from accumulating within the components during conditions of inundation. See Exhibits 3 and 6 of this Application." Please provide additional design information or cross-references demonstrating that the Facility will be built in compliance with the substantive requirements of Chapter 135 (including applicable requirements for elevation and floodproofing), of the Copake Code while meeting Town solar law height requirements and other applicable local law requirements.

b. Please confirm whether, and demonstrate how, the Applicant will comply with any substantive requirements

in § 135-11 of the Copake Code, including without limitation the requirements for a professional engineer or architect's certification in regard to the Applicant's initial design, and floodproofing plan.

Exhibit 8 - Visual Impacts

1. Please update the Landscape Plan to include additional screening at the point of interconnection (POI) substation pursuant to 19 NYCRR § 900-2.9(d)(8) and § 232-16.12(F)(6)(a)(11) of the Copake Code, including but not limited to, adjacent to the west, south, and east perimeter of the POI substation and update photo simulations and contrast ratings for VP46 and VP46b.
2. The Office finds that the Applicant's proposed screening of the Facility from NYS Bikeway 23 / NYS Route 23 is insufficient and does not comply with § 232-16.12(F)(6)(a)(11) of the Copake Code which requires screening from "[p]ublicly dedicated roads and highways, including...State Route 23" and "[r]outes commonly used by bicyclists, both local and bicycle tourists visiting the town." Please revise Exhibit 5, Detailed Site and Landscape Plan, Exhibit 8, "Landscape Type" identified in "Viewpoint Location Aerial Map," and representative simulation VP27 to include additional screening of the Facility.
3. Pursuant to 19 NYCRR § 900-2.9(d)(9), the Applicant provided a lighting plan but it lacks the *illumination levels*. As required by 19 NYCRR § 900-2.9(d)(9)(ii), please supplement the Exhibit with a proposed lighting arrangement, including illumination levels at the collection substation and demonstrate compliance with § 232-16.12(F)(6)(a)(16) of the Copake Code.

Exhibit 9 - Cultural Resources

1. 19 NYCRR § 900-2.10(b) requires "[a] study of the impacts on historic resources within the Project impact area..."

a. Please provide a supplemental Appendix to Exhibit 9 containing SHPO's February 6, 2023 letter, requesting an updated historic resources overview memorandum of the Niver/Rasweiler Angus Farm (available in SHPO's CRIS database); the Applicant's response(s) to this letter; and SHPO's subsequent comments and/or determination on this topic.

b. Please provide a supplemental Appendix to Exhibit 9 containing SHPO's March 7, 2023 Adverse Impact determination letter (available in SHPO's CRIS database), regarding the Applicant's previous "Supplement to Appendix 9-3. Architectural History Report" (DMM Record No. 70).

c. Following the completion of SHPO's review, please update Exhibit 9.

Exhibit 12 - NYS Threatened or Endangered Species

1. ORES, in consultation with the New York State Department of Environmental Conservation (NYSDEC), concludes that the proposed mitigation site for the net conservation benefit plan (NCBP) is not suitable for reasons described in our September 27, 2022 Notice of Incomplete Application. Please supplement Exhibit 12 with alternative areas that can be considered for mitigation.

Exhibit 14 - Wetlands

1. The appropriate classification for the removal of "85%, or 0.84 acres of areas containing trees and shrubs" from Class 1 wetland H-19, as described in supplemental Exhibit 14, is "Clearing of Forest" (19 NYCRR § 900-2.15 Table 1). Clearing of Forest in the adjacent area of Class 1 wetland H-19 is not an allowable impact per 19 NYCRR § 900-2.15 Table 1, unless a 75-foot setback is maintained from undisturbed adjacent areas of the Class 1 wetland.

- a. Please revise Figures, Design Drawings and Exhibit 14 to remove Clearing of Forest from within 75-feet of Class 1 wetlands.
 - b. Please include this update in the revised GIS shapefiles and CAD files requested above.
 - c. Please update Table 14-2 wetland impact and mitigation acreages.
2. Please remove temporal classifications (i.e., "temporary" or "permanent") listed in Supplemental Table 14-2, Article 24 Wetland Adjacent Area Impact Table.
 3. Exhibit 14, Section (f)(4) "Wetland Function in Adjacent Areas" states that "[t]he **Project design and siting will improve the functions and values of the adjacent areas onsite.** ... These functions will be increased by the Project because all impacted wetlands and adjacent areas will be planted with a native seed mix which will stabilize the ground, minimize erosion, restore the land post-construction and increase biodiversity" (**Emphasis added**). Please provide scientific literature or studies to support this statement and further discuss the amount of existing native or naturalized ground cover to remain in the wetland adjacent areas.
 4. The Supplemental Landscape Design Drawings (Revised Appendix 5-3, Parts 1 and 2) portray a "potential trail by others" proposed within wetlands and within 100 feet of wetlands. Please describe any development activities associated with this trail; the impacts that may occur to, and within 100 feet of, federal and state wetlands; and discuss compliance with § 232-11(D)(2) of the Copake Code.

Exhibit 15 - Agricultural Resources

1. 19 NYCRR § 900-2.16(a)(8) requires that the Applicant provide an assessment of the temporary and/or permanent impacts to agricultural production areas within the proposed "Project Footprint". Please update section 15(a)(8) to clarify impacts

to agricultural land that are considered by the Applicant to be a temporary disturbance and impacts considered to be a permanent disturbance. Please include the total acreage for each type of disturbance within the "Project Footprint" and calculated per parcel.

2. Please supplement section 15(a)(8) with additional information tabulating the total acreage within the Project Area that will be retained for each type of continued agricultural use, as described in sections 15(b)(2) and (b)(3) and depicted in Figure 15-10 Agricultural Land to Remain in Production.
3. Please submit an updated Agricultural Plan as required by 19 NYCRR § 900-2.16(c) to address the following:
 - a. Section 15(a)(8) provides insufficient discussion of the Applicant's proposed measures to avoid and minimize agricultural impacts to field-verified active agricultural lands within MSG 1-4 prime soils. Please provide specific facts and figures to substantiate Applicant's statement that "[r]educing impacts to one resource (e.g., wetlands), may increase impacts for another (e.g., agricultural land)."
 - b. Staff acknowledges that section 15(b)(2) states "[t]he Project Footprint will occupy 197.7 acres currently utilized for agricultural production as row crops and hayfields" and section 15(b)(6) states "[w]ithin the approximately 265-acre Project Footprint, 125.66 acres (47.34%) of soils are classified as being within mineral soil groups 1-4." However, the Agricultural Plan is not sufficiently focused on "active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) within NYS Agricultural Land Classified Mineral Soil Groups 1 through 4." Please supplement the Agricultural Plan to provide this information in tabular form for the "Project Footprint or Limit of Disturbance".

4. Page 4 of the Revised Appendix 15-1 states "[w]here topsoil segregation is not deemed feasible, the Agricultural Monitor will be consulted prior to commencing with trenching operations." Please revise the Agricultural Area Trenching Plan at section 15(f) of Exhibit 15 and the Appendix 15-1 Agricultural Plan to include a commitment to adhere to the NYSAGM Guidelines for topsoil segregation, and a requirement for the Agricultural Monitor to include the Office and NYSAGM in any feasibility consultation.
5. Page 18 of the Second Revised Exhibit 15 states "[a]s land disturbance conditions require, a site-specific plan will be prepared, **in consultation with the landowner**, for the replacement or repair of crushed/severed culverts and pipes" (**Emphasis added**). Pursuant to 19 NYCRR § 900-2.16(d), please revise the Drainage Remediation Plan at section 15(d) to include a clear commitment by the Applicant to adhere to the specific NYSAGM Guidelines regarding the Environmental Monitor and Construction Requirements that the Applicant proposes to adhere to concerning the repair of drain lines.
6. In the Second Revised Exhibit 15, section 15(a)(7), the Applicant states "[o]nce Project construction has been completed, a mix of native common seed mixture will be used as ground cover to **enable soil recovery, replenish soil nutrients and mitigate soil erosion...**" (**Emphasis added**). Please provide scientific literature or studies to support this statement.
7. Please update the Applicant's conceptual co-utilization plan as discussed in Exhibit 15(e) Feasibility of Agricultural Co-utilization. Pursuant to 19 NYCRR § 900-2.16(e), please submit any updated information, with sufficient details for proper implementation, regarding the following:
 - a. a detailed apiary plan which discusses operations, proposed apiary specific vegetation seeding/plantings, and projected commodity profits;

- b. a detailed business plan for the sheep farm, including but not limited to, grazing restoration, livestock management, and projected commodity profits; and
- c. a detailed business plan for any other co-utilization activities proposed for the Facility.

Exhibit 22 - Electric and Magnetic Fields

1. Please provide the below missing information related to right of way (ROW) of overhead segments, or the citation to the location of these items:
 - a. Section 22(a) and 22(b): a description of the cross-section, structure details, and ROW Segments evaluated for the *115 kV Generator Tie Line for overhead segments*;
 - b. Section 22(d): the updated measurement intervals for the overhead study; and
 - c. Section 5.1 of the Second Revised Appendix 22-1 indicates a 20' wide ROW. The aerial images included in the revised Appendix 22-1 do not include the proposed ROW of the 115 kV Generator Tie Line for overhead segments. The A.2 and A.3 cross sections do not indicate the 20' wide ROW. Please provide the missing information and clarify the dimensions of the proposed ROW.

Exhibit 23 - Site Restoration and Decommissioning

1. Please remove references to leaving access roads in place at landowner request upon decommissioning.
2. Please provide citations to market price data for panel recycling to support estimated revenues from the line items in Appendix 23-1 for panel salvage "Panels - Silicon," "Panels - Aluminum," and "Panels - Glass." Please remove references to panel resale value in Exhibits 23 and 24.

Exhibit 24 - Local Laws and Ordinances

1. General

- a. Please review DMM public comment #393 and provide any necessary revisions or corrections to Exhibits 2 and 24.
- b. Please supplement Table 24-3 with the following information per parcel: add parcel size to banner (in acres); add a row for Limits of Disturbance (or "Project Footprint"); and add a row for "fenced area" as defined by Table 24-3 footnote 2.
- c. Exhibit 24, Table 24-1 references certain Facility redesign discussions with the Town and community stakeholders, and cites to "Second Revised Exhibit 8, Section 8(d) (pages 68-69)" in multiple locations. It appears the pertinent discussion is on page 66. Please clarify or correct this cross-reference in all locations.
- d. Exhibit 24, Table 24-1 references an iterative design process discussion at Appendix 2-4 in multiple locations. The "Project Layout Changes" slide in Part 1 (PDF page 34) is not representative of the current Facility Fenced Area. Please update this map to reflect all Facility modifications proposed by the Applicant as part of this iterative design process, which can be included as an appendix to Exhibit 2 or 24.
- e. Exhibit 24, Table 24-1 states that "Town of Copake Town Code Chapter 197 (Subdivision of Land) sets forth substantive requirements applicable to subdivision approval..." (e.g. Requests 1 and 2). Please update Exhibit 24, sections 24(a) Substantive Requirements and 24(d) Applicable Local Substantive Requirements and Compliance Assessment to address these matters, or revise Table 24-1 in all locations where this language appears.

2. Requests 1 and 2: § 232-8(A) and Table 1 - Use Regulations
and Table 1: Table of Use Regulations

- a. Regarding Applicant's request for partial relief from the 20% maximum lot coverage limitation, please provide additional facts and figures in a separate Appendix to support Applicant's statements that the loss of 79.78 acres would translate to a reduction in solar generating capacity of approximately 16 MW (with supporting references or citations for the 1 MW/5 acre ratio utilized); that removing panels from one location would require removal of an entire inverter group; that removal of an entire inverter group would result in a loss of 3.6 MW; and that compliance with the 20% maximum lot coverage requirement would "effectively prohibit construction of the Project."
- b. Applicant justifies its request for relief by claiming that "any obligation to redesign the Project in this respect would in effect prohibit the construction of the Project altogether." Please supplement Table 24-1 to describe, in detail, how redesign of the Project would completely prohibit construction. Please consider this comment to be applicable to all other locations in Table 24-1 where the same or similar argument is utilized.
- c. Please clarify Applicant's mitigation justification and the block citation to multiple cross-referenced exhibits, to include topical references (parenthetical or otherwise) to indicate what information the Office is being directed to, in support of Applicant's justification that the adverse impacts of granting relief shall be mitigated to the maximum extent practicable. Please consider this comment to be applicable to all other locations in Table 24-1 where similar block citations are utilized.
- d. As part of its basis for relief, Applicant cites as costs to consumers the purported loss of capital investment including PILOT, host community benefit payments, and

salary and employment benefits. The Office respectfully requests that the discussion of local community benefits is removed from the relief request and notes that it does not consider estimated PILOT and/or host community benefit payments to support requests for relief from local law provisions. If a final siting permit is issued, the Applicant would be required to provide host community benefits pursuant to 19 NYCRR § 900-6.1(f). Please consider this comment to be applicable to all other locations in Table 24-1 where the same or similar argument is utilized.

- e. Please indicate whether the lot coverage calculations provided in Table 24-3 meet the definition of area of a "Solar Energy System" pursuant to Section 4 of the "Revisions to the Copake Town Code as it Pertains to Solar Energy Facilities" which define the area to include "all the land inside the perimeter of the Solar Energy System, *which extends to any interconnection equipment.*" Please revise, as necessary, to include this area.

3. Request 4 - § 232-11(D)(2) - Locational Restrictions (Wetlands and Waterbodies)

- a. Please revise applicable Figures to depict and label the minimum distances between any Facility components, excavations, and horizontal directional drilling pits and identified wetlands and waterbodies.
- b. Please supplement or append Table 24-3, to clarify the acreage of development within 100 feet' of waterbodies identifying the appropriate jurisdiction of each waterbody (e.g. federal or state), and the existing landcover or land use (by area) within 100 feet of these waterbodies.
- c. The Application states that "[a] design change cannot obviate the need for this request without imposing additional impacts on other resources." Please provide

specific facts and figures to support these statements, including a discussion of the alternative siting area referenced in the preceding comment. Please provide a detailed analysis for each parcel demonstrating why Facility components could not be shifted to avoid 100 foot buffer areas. Please consider this comment to be applicable to all other locations in Table 24-1 where the same or similar argument is utilized.

4. Requests 7 and 8 - §§ 232-11(I)(1) and 232-11(I)(2) -
Excavation

- a. The Applicant does not interpret this provision to be applicable because it is not a property owner and "[i]f this provision is applicable, the Applicant could achieve compliance with (a)-(d) because grading will be limited to those areas depicted on Figure 24-2, will stage grading work so as not to affect more than 2 acres of property at a time, will not breach the water table, and will not occur within 100' of a waterway, as described in Exhibit 10 and depicted on Figure 24-2."
 - i. For avoidance of doubt, please clarify if Requests 7 and 8 seek relief from the cited provisions of local law.
 - ii. Please update Table 24-3 to provide grading proposed on each parcel in cubic yards pursuant to the Town's definition of "excavation."
 - iii. Please demonstrate compliance with § 232-11(I)(2)(a)-(d), through mapping or tabular data, including any necessary references to existing or supplemental geotechnical information.
 - iv. Exhibit 24, pages 37, 38, 39, 41, 42, 43 and 44 state "[a]pplication of this provision would effectively prohibit the construction of the Project." Please provide a technical demonstration,

with facts and analysis, justifying the prohibitive nature of these provisions.

5. Requests 9, 10 and 15 - §§ 232-16.12(F) (2); 232-16.12(F) (3); and 232-16.12(F) (6) (a) (9) - Locational Restrictions (Prime Soils)

a. Please supplement Exhibit 24 with an Appendix depicting and quantifying, in map and table form, prime soils as defined by the Town Code (i.e. prime farmland, prime farmland if drained, and soils of statewide importance) within the Project Area (per parcel); "Project Footprint"; the 5-mile Study Area; the Town of Copake; and Columbia County.

b. Please substantiate, with facts and analysis, how the Facility has been sited to avoid prime farmland, prime farmland if drained, and farmland of statewide importance, with respect to the following statement: "[t]o comply with this provision of local law, the Applicant would need to completely redesign the Project layout to avoid prime farmland. Given the diversity of parcel sizes throughout the Project Site, the location of sensitive resources within the Project Site, landowner preferences for their use of their parcels, and other micrositing considerations derived from over a year of site-specific wetland, stream, species, agricultural, soils, and other resource-related impact studies, any obligation to redesign the Project would place an exorbitant burden on the Applicant and would prohibit the construction of the Project altogether."

6. Request 11 - § 232-16.12(F) (5) (a) (1) - Lot Coverage Restrictions (Minimum Parcel Size)

a. The Applicant stated that "[t]he inability to site the access roads on these parcels would effectively prohibit the construction of the Project, as access roads are required to construct the Project. Thus, compliance with this provision would result in a loss of 60 MW, or the

entirety of the Project's generating capacity." Please explain why alternative access is not feasible to construct array INV-10 and how eliminating a single access road would prohibit the construction of the entire Facility. Please consider this comment to be applicable to all other locations in Table 24-1 where the same or similar argument is utilized.

- b. Exhibit 24 indicates that four parcels are not compliant with the minimum lot size, that 2 of the 4 parcels contain no roads, and indicates 0% proposed Tier 4 lot coverage on the 4 parcels. For avoidance of doubt, please review the scope of relief requested to verify that the Applicant's request contains a clear and concise summary of the minimum relief requested. Please consider this comment to be applicable to all other locations in Table 24-1.
7. Request 13 - § 232-16.12(F)(6)(a)(6) - Locational Restrictions (Ecological Values)
- a. Please revise Figure 24-1 to depict and quantify all contiguous areas of forest and undisturbed drainage areas, or provide an adequate description as to why these do not exist within the mapped area. Please provide the acreage of potential impact for each resource listed per parcel and discuss avoidance, minimization, and mitigation.
 - b. Please supplement the discussion of "adverse impacts of granting the request" with specific facts regarding potential impacts to the community, quantification of proposed contiguous forest clearing, and how clearing will be mitigated to the maximum extent practicable.
8. Request 14 - § 232-16.12(F)(6)(a)(8) - Forest Clearing
- a. Please revise the discussion regarding why the "burden should not reasonably be borne by the applicant" in terms

of this specific local law relief. There appears to be an editing error in this section.

- b. Applicant stated “[l]imiting clear cutting to 10% of woodlands on a parcel imposes a technological restriction on the Project.” Please provide specific facts and/or analysis identifying how compliance would make the Facility technically impossible, impractical, or otherwise unreasonable.
 - c. Please supplement the discussion of “adverse impacts of granting the request” with specific facts regarding potential impacts to the community related to the clearing of woodlands and how it will be mitigated to the maximum extent practicable.
9. Request 16 - § 232-16.12(F)(6)(a)(15) - Undergrounding Requirements
- a. Staff respectfully rejects Applicant’s arguments under existing technology and cost or economics. Please revise to conform to the relevant local law provision and requirements under 19 NYCRR 900-2.25(c)(1) and (2).
10. The Applicant has identified the Town of Copake as qualified to implement the New York State Uniform Fire Prevention and Building Code, but has requested to submit the building plans to the Department of State (NYSDOS), and that NYSDOS review, approve, and oversee compliance certification of the project. Consistent with 19 NYCRR § 900-2.25(e), please confirm that “no other arrangement can be made,” and provide “a description of the preliminary arrangement that has been made” between the Applicant and NYSDOS to perform this review.
11. In Table 24-2, Staff respectfully disagrees with the classification of § 232-16.12(F)(6)(a)(19) as a restoration requirement applicable in the decommissioning stage. Please review this section and revise, as appropriate.

APPENDIX A-1
GIS Data Request

Exhibit 3 - Location of Facilities and Surrounding Land Use

1-mile study area
5-mile study area
Recreational and other land uses
Zoning districts
Special districts or Overlay Zones
Resource avoidance areas

Exhibit 4 - Real Property

Area parcels within 1000'

Exhibit 5 - Design Drawings

Proposed ROW corridors
Horizontal directional drilling pad/pit areas
Fenced area
Existing vegetation (to remain)
Updated proposed site contours or limit of grading
Proposed facility interconnection transmission line
Proposed transformer pad

Exhibit 6 - Public Health, Safety and Security

Flood hazard zones

Exhibit 8 - Visual Impacts

Visually sensitive sites / receptors
Photo log locations

Exhibit 9 - Cultural Resources

Project impact area (PIA)
Identified archeological and or cultural resources within PIA
(sites from the Phase 1B AND 50' buffers)
State Historic Preservation consultation and review process data
(all of the locations of structures identified in their trekker
survey/historical report in GIS)
OPRHP zone of visual impact

Exhibit 10 - Geology, Seismology and Soils

Test Pit Locations

Exhibit 12 - Terrestrial Ecology

Northern Harrier winter area of take area from the DEC 1/2022 determination

Exhibit 13 - Water Resources and Aquatic Ecology

Known water wells

Project component waterbody impacts

Exhibit 14 - Wetlands

Project component wetland impacts

Exhibit 15 - Agricultural Resources

Active agricultural lands (active 3 of last 5 years) within Participating Parcels

MSG Soils 1-10 within a radius of at least five (5) miles from all generating facility components, interconnections, and related facilities

Prime soils as defined by the Town Code

Active agricultural lands within MSG 1-4 within Participating Parcels

Known agricultural facilities / infrastructure

Areas of temporary impact to Active agricultural lands within MSG 1-4

Areas of permanent impact to Active agricultural lands within MSG 1-4

Data layers of Figures 15-1 through 15-9

Exhibit 24 - Local Laws and Ordinances

All layers used to create Figures 24-1 and 24-2 and used to calculate items within Table 24-3