

**NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT**

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In the Matter of :
 :
ALLE-CATT WIND ENERGY LLC :
 : Case No. 17-F-0282
Application for a Certificate of Environmental :
Compatibility and Public Need Pursuant to :
Article 10 :
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**PETITION OF ALLE-CATT WIND ENERGY LLC FOR A SECOND
AMENDMENT OF THE CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED**

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Albany, New York

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I. INTRODUCTION

Alle-Catt Wind Energy LLC (ACWE) submits this petition to amend its Certificate of Environmental Compatibility and Public Need (Petition). The Petition is submitted pursuant to 16 NYCRR § 1000.16(b).

II. BACKGROUND

By order dated June 3, 2020, the New York State Board on Electric Generation Siting and the Environment (Siting Board) granted ACWE a Certificate of Environmental Compatibility and Public Need, with Conditions (CECPN)¹ for its proposed wind energy project (Project), which was amended by order dated November 28, 2023.²

Following submission of compliance filings and receipt of Notices to Proceed with construction, ACWE began construction of the Project in 2024 with construction of the Operations

¹ See Case 17-F-0282, *Order Granting Certificate of Environmental Compatibility and Public Need, with Conditions*, issued and effective June 3, 2020 (*Certificate Order*), as confirmed by *Order on Rehearing*, issued and effective Sept. 25, 2020.

² See Case 17-F-0282, *Order Approving Amendment, Subject to Conditions*, issued and effective Nov. 28, 2023 (*Amendment 1 Order*).

& Maintenance (O&M) Building, followed by construction of the laydown yard and tree clearing activities which commenced in November 2024, and commencement of civil construction in early 2025. Construction of the Project is currently ongoing. On April 29, 2025, the Public Service Commission (Commission) issued an Order finding ACWE’s compliance filing related to *short-term noise* produced by the turbines reasonably assures compliance with CECPN Attachment A No. 9 and Conditions 68(a), (c)(i), (d)(v), (vii), and (viii).³ On December 23, 2025, the Commission approved the Pre-Construction Noise Impact Assessment (PNIA) which reported predicted noise levels, including the annual average level, associated with the collection substation, which ACWE submitted on November 18, 2024, and supplemented on March 20, 2025, April 10, 2025, May 16, 2025, and May 23, 2025, June 17, 2025, and December 3, 2025.⁴ As of this date, Commission approval of the annual average (long term) noise level prediction reported in the PNIA submitted on November 18, 2024, for the Project’s turbines, remains outstanding for purposes of authorizing commercial operation of the Project once construction is complete.⁵

³ See Case 17-F-0282, *Order Approving Multiple Compliance Filings Subject to Conditions*, issued and effective April 29, 2025 (“the Commission finds that the Noise Package ... reasonably assures compliance with the requirements of Attachment A No. 9 and Certificate Condition 68(a), (c)(i), (d)(v), (vii), and (viii) of the Certificate Order and are approved for the excavation and pouring of foundations and erection of turbines.”).

⁴ See Case 17-F-0282, *Order Approving Compliance Filings 68(b) and 68(d) Subject to Conditions*, issued and effective Dec. 23, 2025 at 9 (“The Compliance Filings submitted pursuant to Certificate Condition 68(b) and (d), collectively the Substation Noise Assessment Package, as filed by Alle-Catt Wind Energy LLC (Certificate Holder) ... are approved for the installation of noise generating equipment within the Project’s collection substation, including the substation transformers, the emergency backup generator, and associated sound mitigation measures.”).

⁵ See Case 17-F-0282, *Order Approving Multiple Compliance Filings Subject to Conditions*, issued and effective April 29, 2025 at 12 (“the Commission finds that the Noise Package, as filed and supplemented, reasonably assures compliance with the requirements of Attachment A No. 9 and Certificate Condition 68(a), (c)(i), (d)(v), (vii), and (viii) of the Certificate Order and are approved for the excavation and pouring of foundations and erection of turbines.”).

III. THE PROPOSED AMENDMENT

ACWE petitions the Siting Board to amend the CECPN, modifying Certificate Condition 68(d) to remove the requirement for pre-construction modeling of annual equivalent continuous average nighttime sound level, as follows:

Revised sound modeling with the specifications of the wind turbine model selected for construction to demonstrate that the Project is modeled to meet the Local Laws on Noise and the regulatory limits of Condition 72. The revised sound modeling will include a cumulative noise assessment that includes noise from any proposed, existing, or approved Wind Generation Facility adjacent to the approved project area. In this case, the evaluation will include any adjacent wind turbine within a 2-mile radius from any wind turbine from the Facility.

- (i) If noise reduction operations (NRO's) are used to demonstrate conformance with any Certificate Condition or local law on noise in a compliance filing, those NRO's shall be implemented at the start date of operations;
- (ii) a compliance filing shall use less than half of the maximum NRO available for each turbine model;
- (iii) Sound levels shall be evaluated at either 4.0 meters with no uncertainty added, or at 1.5 meters with a 2 dBA correction for uncertainty added.

In addition, the revised sound modeling will show conformance with the following design goals:

- (v) 45 dBA Leq (8- hour) at any permanent or seasonal non-participant residence existing as of the issuance date of this Certificate and 55 dBA Leq (8-hour) for any participant residence existing as of the issuance date of this Certificate.
- ~~(vi) 40 dBA L(night outside), annual equivalent continuous average nighttime sound level from the Facility outside any existing non-participating residence and 50 dBA L(night outside) for participating residences.~~
- (vii) 55 dBA Leq (8- hour), equivalent continuous average sound level from the Facility across any portion of a non-participating property except for portions delineated as wetlands. This shall be done by rendering sound contour drawings for the final design including all boundary lines within the Project Area, participating status, and wet land delineations. Statements indicating whether the final design complies with this Certificate Condition will also be included.

- (viii) 65 dBZ L(1-hour), maximum 1-hour equivalent continuous average sound level from the Facility at the 16 Hz, 31.5 Hz, and 63 Hz full octave bands outside any existing non-participating residence.

ACWE requests that the Siting Board remove Subparagraph (vi) from Condition 68(d). Uncertainty concerning the methods to be used in conducting annual average sound level modeling creates needless uncertainty in how the results are to be reported and applied. Removing the requirement to predict the annual average noise level is consistent with determinations reached by the Siting Board and the Commission concerning similar wind energy projects which demonstrate the State's confidence in relying on the testing and enforcement short term noise limits to protect the residents living in the vicinity of wind energy projects. In fact, the annual average continuous sound level is no longer a measure employed by the State's statutory review process applied to major wind energy generating facilities provided by Public Service Law Article VIII and the implementing regulations of Part 1100 of Title 16, Code of Rules and Regulations.⁶

In Case 14-F-0490, the certificate holder applied for, and was granted, an amendment to eliminate a long-term sound limit.⁷ In its review of this request, the Siting Board stated that

Following the issuance of Cassadaga Wind's Certificate, the Siting Board had the opportunity to consider the issue of whether the long-term noise design goals should be measured after construction of a wind project is completed. This issue was subject to extensive litigation in other cases. In Baron Winds, for example, the Hearing Examiners recommended the adoption of long-term design goals but not as long-term regulatory limits. The Hearing Examiners found that the monitoring requirements for the latter were onerous and excessive. The Hearing Examiners also found that there were no standards for measuring an annual average and that a long-term regulatory limit would have little effect on

⁶ See 16 NYCRR § 1100-2.8(b)(1)(6) ("Design Goals: The study shall demonstrate that noise levels from noise sources at the facility will comply with the following: ... A maximum noise limit of fifty-five (55) dBA Leq (8-hour), *short-term equivalent continuous average nighttime sound level* from the facility across any portion of a non-participating property except for portions delineated as NYS-regulated wetlands pursuant to section 900-1.3(e) of this Part and utility ROW. The applicant shall demonstrate compliance with this design goal through the filing of noise contour drawings and sound levels evaluated at the worst-case discrete locations. No penalties for prominent tones will be added in this assessment.") (emphasis added).

⁷ CASE 14-F-0490, Application of Cassadaga Wind LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a Wind Energy Project, *Order Approving Amendment*, issued and effective May 26, 2021.

annoyance and complaints, which they determined are generated by short-term noise events, not events covering years.

The Siting Board agreed with the Hearing Examiners, finding there was no need to impose a long-term regulatory limit, which it determined would be impractical to enforce. The Siting Board determined that the short-term regulatory limits, as well as the design limits imposed by the Certificate Conditions, would sufficiently minimize or avoid noise impacts to the maximum extent practicable. Notably, the Siting Board did not find any basis to revisit its determination in Number Three Wind. Similarly, in Bluestone Wind, the Siting Board decided not to require monitoring for compliance with long-term noise limits, noting that previous decisions concluded that establishing and then monitoring for long-term noise limits was unnecessary and impractical.

While the public comments submitted on this issue argue against the removal of the long-term noise monitoring, Siting Board precedent is clear that such monitoring is not needed to determine compliance with certificated noise standards. Through these cases, the Siting Board has consistently determined there are other appropriate and sufficient means to minimize and avoid noise impacts to the maximum extent practicable.⁸

The Siting Board ultimately concluded that if the applicant complies with the revised sound protocols, “there is no compelling reasons to keep condition 80(b) as part of the Certificate Conditions for this Project[.]”⁹ The same is true in this case, as discussed further below.

IV. THE PROPOSED AMENDMENT WILL NOT ALTER THE REGULATORY NOISE LIMITS OR ACWE’S OBLIGATIONS TO TEST FOR COMPLIANCE AND TO TAKE REQUIRED MEASURES IN THE EVENT OF NON-COMPLIANCE.

The proposed amendment will not result in any new or increased adverse impacts, and the Siting Board’s finding that “the Project will meet all statutory requirements for certification under Article 10” remains unaffected. *Certificate Order* at 2.

The operative noise control provisions of the Amended CECPN are provided by Condition 72, which prescribes regulatory limits measured by short term values, which can be predicted, tested, and enforced; Conditions 69 and 70, which require testing for compliance with the

⁸ *Id.* at 9-11.

⁹ *Id.* at 12.

Condition 72 limits after operation begins; Condition 71, which provides for the enforcement of the limits if the testing results demonstrate non-compliance; and Condition 73, which requires ACWE to maintain a log of, and to address, noise complaints. ACWE's requested amendment would not alter or diminish those conditions.

Commission precedent supports reliance on the requirements of Conditions 69 through 73 to protect the public health and safety from adverse impacts of noise and vibration. In reviewing a dispute concerning the application of Noise Reduction Operation (NRO) technology in a PNIA submitted in a compliance filing on behalf of Baron Winds LLC, the Commission concluded with the following:

The Certificate Holders and their experts and members of DPS Staff disagree on certain aspects of the NRO Plan and a minor correction to the Sound Power Levels for the Gamesa turbines. However, the Project has protective Certificate Conditions such as sound limits during operation (Certificate Condition 72); requirements for the Certificate Holder to evaluate compliance with those noise limits during the first year of operations (Certificate Condition 69); noise minimization measures that must be proposed and implemented if any limit is exceeded; and requirements not to operate the turbines of the Facility that caused a violation if the minimization measures are not implemented on schedule and to retest the Facility to demonstrate compliance (Certificate Condition 70). In addition, the Project has been deemed by the Siting Board as necessary for the public need, is constructed, and ready to start operations in the near future. With these protections in place, Compliance Filing 68(a-e), as filed and supplemented, reasonably assures compliance with Certificate Condition 68(a-e) of the Certificate Order for the Operation Phase of Baron Winds Phase I. Further, the Certificate Holder is required to comply with the noise limits in Certificate Condition 72 and any Certificate Condition on noise. In the event there are any complaints related to noise, they shall be handled pursuant to the Sound Monitoring Compliance and Noise Complaint Protocol.¹⁰

The Commission's previous reliance on the short-term noise limits and post-construction noise testing, and enforcement conditions in the *Baron Winds* proceeding supports the Siting Board's consideration of ACWE's Petition.

¹⁰ CASE 15-F-0122, Application of Baron Winds LLC, *Order Approving Compliance Filing 68 (a-e) Subject to Conditions*, issued Dec. 29, 2022 at 13.

The Siting Board will find support as well in the regulations governing noise impact assessment and pre-construction modeling standards adopted by the Office of Renewable Energy Siting and Electric Transmission (ORES) applicable to major wind energy electric generating facilities. Section 1100-2.8, which prescribes the contents of the Siting Permit application exhibit addressing noise impacts, does not include any requirement for predicting long term noise levels, by means of calculating an annual average noise level. Section 1100-2.8(b) only requires the applicant to demonstrate, through computer modeling, compliance with the following design goals:

- (i) A maximum noise limit of forty-five (45) dBA Leq (8-hour), at the outside of any existing non-participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any existing participating residence;
- (ii) Prominent tones are defined by using the constant level differences listed under ANSI/ASA S12.9-2005/Part 4 Annex C (sounds with tonal content) (see section 900-15.1(a)(1)(iii) of this Part), at the outside of any existing non-participating residence. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by 5 dBA for evaluation of compliance with subparagraphs (i) and (v) of this paragraph;
- (iii) A maximum noise limit of sixty-five (65) dB Leq- (1-hour) at the full octave frequency bands of sixteen (16), thirty-one and a half (31.5), and sixty-three (63) Hertz (Hz) outside of any existing non-participating residence in accordance with Annex D of ANSI/ASA standard S12.9-2005/Part 4 Section D.2.(1) (Analysis of sounds with strong low-frequency content) (see section 900- 15.1(a)(1)(iii) of this Part);
- (iv) Not producing human perceptible vibrations inside any existing non-participating residence that exceed the limits for residential use recommended in ANSI/ASA Standard S2.71-1983 “Guide to the evaluation of human exposure to vibration in buildings” (see section 900-15.1(a)(1)(i) of this Part);
- (v) A maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment; and
- (vi) A maximum noise limit of fifty-five (55) dBA Leq (8-hour), short-term equivalent continuous average nighttime sound level from the facility

across any portion of a non- participating property except for portions delineated as NYS-regulated wetlands pursuant to section 900-1.3(e) of this Part and utility ROW. The applicant shall demonstrate compliance with this design goal through the filing of noise contour drawings and sound levels evaluated at the worst-case discrete locations. No penalties for prominent tones will be added in this assessment.¹¹

Section 1100-2.8(b)(1) does not require applicants to present modeled predictions of annual average sound levels or to demonstrate compliance with an annual average sound level design goal. Section 1100-6.5, which prescribes the Uniform Standards and Conditions for noise limits applicable to permitted wind energy facilities, similarly includes only short-term measured values.¹² Nor have either of the two Siting Permits granted by ORES for wind energy electric generating facilities included annual average noise levels in their Site-Specific Conditions.¹³

The State's move away from the use of annual average sound levels reflects an acknowledgement that (i) wind turbine noise heard by those residing in proximity to turbines is experienced when it is at its loudest, which occurs and is detected in short intervals when relevant conditions working in combination produce worst case conditions for noise production; and (ii) adherence to and enforcement of the short term regulatory limits will adequately prevent unacceptable noise impacts from occurring. In contrast, a measure calculated by averaging noise levels generated over a full year does not provide a meaningful prediction of impacts.

The amendment ACWE seeks here is consistent with the evolution described above. The amendment also eliminates the need for the Commission in its review of the PNIA to resolve a disputed modeling issue.¹⁴ Given that ACWE will comply with the operative noise control

¹¹ 16 NYCRR §§ 1100-2.8(b)(1)(i)-(vi).

¹² *See id.* at § 1100-6.5.

¹³ *See* CASE 21-00026, Application of Heritage Wind, LLC for a 94-c Permit for Major Renewable Energy Facility, *Siting Permit for a Major Renewable Energy Facility*, issued Jan. 13, 2022; *see also* CASE 21-0074, Application of Prattsburgh Wind, LLC for a 94-c Permit for Major Renewable Energy Facility, *Siting Permit for a Major Renewable Energy Facility*, issued Sept. 24, 2024.

¹⁴ *See* CASE 17-F-0282, *Ltr. from John W. Dax, Esq. to NYS Pub. Serv. Comm'n* (March 20, 2025) (DMM No. 685).

provisions in the Amended CECPN, the requested amendment does not constitute a revision within the meaning of 16 NYCRR § 1000.2(ak) as the changes will not result in any significant adverse environmental impacts, as determined pursuant to 6 NYCRR § 617.7(c), or the identification of any adverse impact not already identified and assessed by the Siting Board and the hearing examiners.

V. CONCLUSION

For the reasons explained herein, ACWE petitions the Siting Board to amend the Certificate of Environmental Compatibility and Public Need as described.

Dated: January 26, 2026
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