



Office of
Renewable
Energy Siting

KATHY HOCHUL
GOVERNOR

HOUTAN MOAVENI
EXECUTIVE DIRECTOR

September 20, 2021

Joseph Green, Development Director
Hemlock Ridge Solar, LLC
c/o Community Energy, Inc.
Three Radnor Corporate Center, Suite 300
100 Matsonford Road, PA 19087
Joe.Green@CommunityEnergyInc.com

RE: Matter No. 21-00748 - NOTICE OF INCOMPLETE
APPLICATION

Executive Law §94-c Permit Application of Hemlock Ridge
Solar LLC (formerly known as Orleans Solar LLC), for
the proposed Hemlock Ridge Solar Facility (Facility),
located in the Towns of Barre and Shelby, Orleans
County (200 MW Solar)

Dear Joseph Green:

Based upon review of the above Permit Application submitted by
Hemlock Ridge Solar LLC (Applicant) on July 19, 2021, the Office
of Renewable Energy Siting (the Office or ORES) has determined
that the Application, as submitted, is incomplete. A list of
incompleteness and a description of the specific deficiencies are
identified 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 Permit 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
of incomplete application 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deemed withdrawn without prejudice, in compliance with 19 NYCRR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. 21-00748 Hemlock Ridge Solar Facility**

Pursuant to 19 NYCRR §900-4.1(d), this notice includes a listing of all identified areas of incompleteness and a description of specific deficiencies requiring a written response from the Applicant.

Without limitation, the additional analyses and information requested herein are necessary to make findings and determinations that the proposed Solar Facility, together with applicable Uniform Standards and Conditions (USCs), site specific conditions, and pre-construction and post-construction compliance filings, would: a) comply with Executive Law §94-c and applicable provisions of the Office's regulations at 19 NYCRR Part 900; b) comply with substantive provisions of applicable State laws and regulations; c) comply with substantive provisions of applicable local laws and ordinances; d) avoid, minimize, or mitigate, to the maximum extent practicable, potential significant adverse environmental impacts of the Facility; e) achieve a net conservation benefit with respect to any impacted threatened or endangered species; and f) contribute to New York's Climate Leadership and Community Protection Act (CLCPA) targets by providing the estimated additional megawatts (MW) of renewable energy set forth in the Application, and provide the environmental benefits of offsetting the estimated number of tons of CO₂ and other emissions per year set forth in the Application.

On June 30, 2021, the Applicant filed a notice on DMM stating that the Facility and Applicant names were changed from Orleans Solar LLC to Hemlock Ridge Solar LLC on May 20, 2021. Please update the Applicant name on all maps, tables, data forms, and other Facility information created on or after that date to reflect the updated Applicant name (Hemlock Ridge Solar LLC) Facility name (Hemlock Ridge Solar Facility).

General Requirements for Applications

1. 19 NYCRR §900-1.4(a)(4)(i)-(vi) requires the creation of "[a] website that includes a description of "...[t]he proposed facility, its location, and the range of potential environmental and health impacts of the construction and operation of the facility; a map of the proposed facility site; a statement detailing when and where the application may be examined; information on the availability of the local agency account funds; an explanation of how and where persons can file a request to receive notices concerning the proposed facility; and information as to how to access relevant documents on the ORES website." Please revise the content of the website to include the required information with links in a more prominent location to make the website more user friendly and ensure the information is easily accessible to the public.
2. 19 NYCRR §900-2.1(e) requires that "[i]f the same information is required for more than one exhibit, it may be supplied in a single exhibit and cross-referenced in the other exhibit(s) where it is also required." When addressing the comments set forth herein, the Office respectfully requests that additional cross-references to other Exhibits and Appendices be included in the updated Application materials.
3. To the extent information requested herein is already provided in another Application Exhibit, Appendix or Figure, the Office will consider a revised Exhibit, Appendix and/or Figure containing appropriate cross references to that information (with supporting explanation(s), where required).

Exhibit 2 - Overview and Public Involvement

1. Exhibit 2 contains a description of the components of the proposed Solar Facility, and an analysis of the proposed Facility's potential environmental and other impacts. In compliance with 19 NYCRR §900-2.3(a), please supplement Exhibit 2 to integrate cross-references to the Exhibit 5 Design Drawings which support each of the required findings, determinations and considerations requested of the Office.

Exhibit 3 - Location of Facilities and Surrounding Land Use

- 1.19 NYCRR §900-2.4(g) requires "[a] map of existing zoning districts and proposed zoning districts within the study area and a description of the permitted and the prohibited uses within each zone." A description of permitted and prohibited uses is only provided for zoning districts within the Facility Site (i.e., the Town of Shelby and the Town of Barre Agricultural/Residential districts). Please provide a description of the permitted and prohibited uses for each zoning district located within the Study Area. Please also revise Figure 3-6 to depict the Town of Barre Flood Hazard Overlay district and correctly identify the Town of Shelby Wildlife Protection Overlay district and the Town of Shelby Hamlet district.

- 2.19 NYCRR §900-2.4(q) requires "[o]verlays on aerial photographs which clearly identify the facility site and any facility layout, interconnection route, the limits of proposed clearing or other changes to the topography..." Figure 3-11 depicts the proposed limits of construction activity, but it is unclear whether the proposed limits of construction activity include the limits of proposed clearing and grading. Please revise Figure 3-11 to clearly identify the proposed limits of clearing and grading on the aerial photographs.

Exhibit 4 - Real Property

- 1.19 NYCRR §900-2.5(a) requires "[a] map of the facility site showing property boundaries with tax map sheet, block and lot numbers; the owner of record of all parcels included in the facility site and for all adjacent properties; easements, grants, deed restrictions, and related encumbrances on the parcels comprising the facility site..." Please revise Figure 4-1 (Sheet 3 of 6) to depict the Wetland Reserve Program Conservation Easement located on a parcel adjacent to the Facility Site (as shown on Figure 3-9).

Exhibit 5 - Design Drawings

The information provided in Exhibit 5 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.6.

1. Maximum Height of Solar Facilities - 19 NYCRR §900-2.6(e) requires that "[t]he maximum height of solar facilities, exclusive of electric collection, transmission or substation/switchyard components, shall not exceed twenty (20) feet from finished grade. The height of arrays shall be measured from the highest natural grade below each solar panel to its maximum potential height." The proposed maximum height of arrays is inconsistent throughout the Application. The array elevation detail presented in the Design Drawing Set shows a fifteen (15) foot height, while the text in Exhibit 5 states that the solar arrays will have a typical height of approximately twelve (12) feet above finished grade at their tallest position. Please correct the proposed maximum height of the array panels throughout the Application.
2. Collection Line ROWs - The following updates are required to the general site plan drawings and details in Exhibit 5 and Appendices 5-A and 5-B:
 - a) 19 NYCRR §900-2.6(f) (1) (i) (c) requires "[e]lectric cable collection line corridors (including an indication of permanent rights-of-way (ROW))." Please revise drawings for Appendix 5-B to include all ROWs associated with collection lines.
 - b) 19 NYCRR §900-2.6(f) (2) (iii) requires "[t]ypical underground infrastructure section details including single and multiple circuit layouts with dimensions..." Although drawing C-603 provides details for the installation of a single circuit collection line, details for the installation of multiple circuit installations are missing. Please supplement Exhibit 5 and provide multiple circuit details, a general description of the cable installation process, and revised drawings that clearly indicate the limits of disturbance and clearing width limits.
3. Splice Vaults - The following update is required to the general site plan drawings, Civil Design and Electrical Design Drawings, and other details in Exhibit 5 and Appendix 5-A:
 - a) 19 NYCRR §§900-2.6(f) (1) (i) (c) and (f) (2) (iii) require that the general site plan drawings and typical details include information for any proposed splice vaults at

solar facilities. Please provide supplemental information for splice vaults including vault dimensions, level of cover, required trench length, width, and depth, clearing width limits for construction and operation of the Facility, and limits of disturbance.

4. Disturbance Limits - 19 NYCRR §900-2.6(f)(1)(i)(e) requires "[a]pproximate limits of disturbance for all facility components." Please revise Appendices 5-A and 5-B to include limits of disturbance or provide a standalone set of maps which include the proposed Facility facilities and related limits of disturbance.
5. Collection and Interconnection Stations - 19 NYCRR §900-2.6(f)(1)(i)(g) requires "[e]xtents of collection and interconnection stations and any applicable local setbacks." The design drawings do not include setbacks of proposed collection and interconnection stations. Please revise the design drawings to illustrate any applicable setbacks pertaining to the proposed collection and interconnection stations.

Exhibit 6 - Public Health, Safety, and Security

1. 19 NYCRR §900-2.7(a)(2) requires the "[a]nticipated volumes of such wastes to be released to the environment during construction and under any operating condition of the facility." Please supplement Exhibit 6, sections (a)(1) and (a)(2), to address tree clearing and stump removal, including waste volumes or acreage cleared and notation that any off-site disposal site for stumps (if utilized by Applicant) will be an approved Land Clearing Debris landfill site.

Exhibit 7 - Noise and Vibration

The design contained in the Application does not comply with the requirements of 19 NYCRR §900-2.8, and deficiencies in Exhibit 7 discussed below prevent the Office from completing its review in compliance with 19 NYCRR §900-2.8. Please address the following so that the Office can determine whether Facility-generated noise has been avoided, minimized and mitigated to the maximum extent practicable:

1. 19 NYCRR §900-2.8(b)(2)(ii) requires "[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," which threshold is increased by 5 dBA if a prominent tone occurs. The Pre-Construction Noise Impact Assessment (PNIA) in Appendix 7A does not provides sound pressure levels from the collector substation exclusively under the scenarios listed in the Application. Although Table 7-5 (Exhibit 7, p. 7) shows that the maximum sound level from the substation is 37 dBA (with a 5 dBA penalty included), it does not specify the operational noise conditions of the substation noise sources, time of day, the receptor at which such level is expected to occur, or how the level was obtained. Please provide the sound pressure levels from the collector substation equipment exclusively and specify whether these levels, in combination with any tonal penalty as specified in §900-2.8(b)(2)(iii), comply with the maximum design goal specified in §900-2.8(b)(2)(ii) at any non-participating residence. Please report the noise impacts from the collector substation as required by 19 NYCRR §900-2.8(q)(2) by using the maximum sound power levels as required by §900-2.8(d)(1)(i).

2. 19 NYCRR §900-2.8(d)(1) requires that the evaluation "...[u]se computer noise modeling software that follows the ANSI/ASA S12.62-2012/ISO 9613-2:1996 (MOD) ... or the ISO-9613-2:1996 propagation standards..." 19 NYCRR §§900-2.8(d)(1)(iv) requires that the model "[r]eport, at a minimum, the maximum A-weighted dBA Leq (1-hour or 8-hour) sound pressure levels in a year..." 19 NYCRR §§900-2.8(d)(1)(v) requires that the model "[r]eport the maximum A-weighted dBA Leq sound pressure levels in a year (Leq (8-hour)) at the most critically impacted external property boundary lines of the facility site..." The PNIA in Appendix 7A states that "[a]ttenuation due to foliage was included in forested areas within project parcels only..." In addition, Figure 57, in Appendix B of the PNIA, shows that seven foliage areas were included in the computer noise model. The only attenuations explicitly allowed under 94-c are listed in 19 NYCRR §900-2.8(e)(1) and include Adiv, Aatm, Agr, and Abar. Attenuation due to foliage is listed in Annex A of ANSI/ASA S12.62-2012/ISO 9613-2:1996 (MOD), for information only. Please exclude foliage from the computer noise modeling and provide revised sound modeling results in tabular and graphical format as required by 19 NYCRR §§900-2.8(d)(iv), (d)(v), (d)(vi), (k), (l), and (q)(2). Please

state whether the Facility, as modeled without foliage, complies with the short-term design goals included in 19 NYCRR §§900-2.8(b)(2) and report the maximum impacts in a year as required by 19 NYCRR §§900-2.8(d)(1)(iv) and (v). Should additional mitigation be required to comply with design goals, please provide those details as required by 19 NYCRR §§900-2.8(p)(3).

3. 19 NYCRR §900-2.8(h)(1) requires that "[t]he sensitive sound receptors shown..." are "...identified by property tax codes...". Please revise the following figures and tables to include Tax ID numbers for sensitive sound receptors: Figures 7-1, 7-2; Figures 15 through 51 in the PNIA; and Figures 58 through 69 and Tables 16 through 18 in Appendix C of the PNIA.
4. 19 NYCRR §900-2.8(j)(1) requires computer noise modeling "...[f]or the main phases of construction, and from activities at any proposed batch plant area/laydown area." Please supplement Exhibit 7 with information regarding construction noise from the batch plant and laydown areas.
5. NYCRR §900-2.8(j)(4) requires that "[s]ound impacts shall be reported with sound level contours (specified in subdivision (k) of this section) on the map described in subdivision (h) of this section..." Sound contours were provided at the worst-case locations only, rather than for the study area. Please provide noise contours for construction activities (as required by subdivision (k)) until the 30 dBA noise contour is reached on the map of the study area (as required by subdivision (h)).
6. 19 NYCRR §900-2.8(k)(2) requires that "[s]ound contours shall include all sensitive sound receptors and boundary lines (differentiating participating and non-participating)..." Please revise the following figures to include all boundary lines in the study area and differentiate participating from non-participating: Figures 7-1 or 7-2; Figures 15 through 51 in the PNIA; and Figures 58 through 69 in Appendix C of the PNIA.
7. 19 NYCRR §900-2.8(p) requires that "[t]he software input parameters, assumptions, and associated data used for the computer modeling shall be provided..." Please supplement Exhibit 7 with data used for computer noise modeling of the barriers, GIS files for barriers, site plan and elevation

details of the substations, including all relevant noise sources and any noise mitigation measures, and indicate the lengths of each "L" shaped barrier.

- 8.19 NYCRR §900-2.8(p)(5)(ii) requires "[s]ound information from the manufacturers for all noise sources as listed above, and any other relevant noise sources." Please revise the PNIA to include the manufacturer data for the substation high voltage transformer and the array transformers. If the manufacturer information is not available, but was obtained with a test, please provide a copy of the test report indicating whether it corresponds to the same equipment proposed for the Facility and any other relevant information of the test (e.g., and without limitation, technical specifications of the equipment tested, description of standards followed, sound instrumentation, testing conditions, derivation of results). For the transformers where sound power levels were estimated based on standards and/or algorithms, please provide a clear derivation of sound power levels. When sound power level information from a transformer manufacturer is not available, levels can be estimated by using the algorithms recommended by the Electric Power Plant Environmental Noise Guide (Volume 1, 2nd edition. Edison Electric Institute. Bolt Beranek and Newman Inc. Report 3637. 1983 Update). If additional mitigation measures for the substation and array transformers are required to comply with design goals in §900-2.8(b)(2), please submit details of those mitigation measures.

Exhibit 8 - Visual Impacts

The information provided in Exhibit 8 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.9.

1. Viewpoint Selection - 19 NYCRR §900-2.9(b)(4) requires that viewpoint selection be based upon the following:
 - a) (iii) "[l]evel of viewer exposure (i.e., frequency of viewers or relative numbers, including residential areas, or high-volume roadways)." Please supplement Exhibit 8 with information regarding level of viewer exposure.

- b) (iv) “[p]roposed land uses.” Please supplement Exhibit 8 with information regarding proposed land uses for the viewshed analysis.
 - c) (v) “[a]ssessment of visual impacts pursuant to the requirements of adopted local laws or ordinances.” Please supplement Exhibit 8 with a discussion regarding visual impacts related to the requirements of local laws or ordinances.
2. Lighting Plans - 19 NYCRR §900-2.9(d)(9) requires lighting plans to address the following:
- a) (ii) “[p]lan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement and illumination levels...” Please provide a plan and profile of the proposed lighting arrangements.
 - b) (iii) (a) “[l]imiting the maximum total outdoor lighting output based on the lowest allowable OSHA limits; task lighting fixtures shall be designed to be placed at the lowest practical height...” Please supplement Exhibit 8 with information regarding the height of proposed fixtures and commit to limiting the maximum total outdoor lighting output based on lowest allowable OSHA limits.
 - c) (iii) (b) “[f]ull cutoff fixtures, with no drop-down optical elements (that can spread illumination and create glare) for permanent exterior lighting, consistent with OSHA requirements and adopted local laws or ordinances, including development standards for exterior industrial lighting, manufacturer’s cut sheets of all proposed lighting fixtures shall be provided.” Please provide the manufacturer’s cut sheets for lighting fixtures at the substation.

Additional information may be required to complete Exhibit 9 and/or support Applicant’s requests in Exhibit 24 for the Office to not apply certain provisions of local law, as discussed in the comments below.

Exhibit 9 - Cultural Resources

The information provided in Exhibit 9 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.10. With full recognition of the substantive work completed to date, the cultural resources evaluation required pursuant to 19 NYCRR §900-2.10 remains incomplete.

1. 19 NYCRR §900-2.10(a)(4) requires “[a] Phase II site evaluation study to assess the boundaries, integrity and significance of identified cultural resources” if required by the Phase I study results. Correspondence from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) and State Historic Preservation Office (SHPO) (collectively, OPRHP/SHPO) dated July 30, 2021, states that “OPRHP concurs with EDR that EDR-OS-006 (USN 07302.000058) has the potential to be eligible for the State and National Registers of Historic Places. Due to the density, distribution, and types of artifacts present within EDR-OS-006 and the corresponding potential for cultural features to exist below the plowzone (including burials), the Seneca Nation of Indians (SNI) and OPRHP recommend that this site be avoided. To facilitate the Tribal consultation, OPRHP recommends the complete avoidance of this site, including PV Arrays, or a Phase II Site Examination be completed. Please submit either a Site Avoidance and Preservation Plan or a Phase II Site Examination Scope of work for review.” Please provide the Site Avoidance and Preservation Plan or a Phase II Site Examination Scope of Work, as required. If site avoidance is implemented, arrays will be removed from portions of parcel 115.-1-31.1. Please provide revised figures to reflect the removal/relocation of panels.
2. 19 NYCRR §900-2.10(b) requires “[a] study of the impacts on historic resources within the project impact area, including the results of field inspections, a review of the statewide inventory of historic property, and consultation with local historic preservation groups and federal/state-recognized Indian Nations to identify sites or structures listed or eligible for listing in the State or National Register of Historic Places within the PIA, including an analysis of potential impact on any standing structures which appear to be at least fifty (50) years old and potentially eligible for listing in the State or National Register of Historic Places, based on an assessment by a qualified individual.” OPRHP/SHPO determined in its April 7, 2021 letter that the Facility will adversely impact three properties eligible for inclusion in

the New York State and National Registers of Historic Places. OPRHP/SHPO indicated that its review is ongoing and once the assessment of potential archeological impacts is completed, a formal recommended finding pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law (NYSPRHPL) will be issued. Please provide OPRHP/SHPO's formal determination pursuant to Section 14.09 of the NYSPRHPL.

Exhibit 11 - Terrestrial Ecology

The information provided in Exhibit 11 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.12.

1. 19 NYCRR §900-2.12(d) requires "[a] list of the species of mammals, birds, amphibians, terrestrial invertebrates, and reptiles that are likely to occur based on ecological communities present at, and bird and bat migration routes through, the facility, supplemented as necessary by site surveys, site observations and publicly available sources." Please develop a comprehensive list of mammals and terrestrial invertebrates that are likely located on the Facility site.
2. Please see comments in the discussion of Exhibit 12 (NYS Threatened or Endangered Species) below concerning the Applicant's assessment of potential significant adverse environmental impacts to listed and unlisted wildlife species under this Exhibit 11 (Terrestrial Ecology). To avoid repetition, this discussion is incorporated in Exhibit 11 by reference. Please update Exhibit 11 accordingly.

Exhibit 12 - NYS Threatened or Endangered Species

1. 19 NYCRR §900-2.13(f) requires a Net Conservation Benefit Plan (NCBP) be submitted in compliance with §900-6.4(o) "[f]or a facility that would adversely impact any NYS threatened or endangered species or their habitat..." Please supplement Section 5.2 and revise Table 2 of the NCBP to identify all land necessary to meet the mitigation acreage of 273 acres as required for an approvable NCBP.
2. The Application acknowledges that high-quality habitat exists within 5 miles of the Facility site that could attract

threatened, endangered and unlisted species, including the Iroquois National Wildlife Refuge (NWR) (0.1 mile southwest of the Facility site), and the Tonawanda (5.5 miles southwest of the Facility site) and Oak Orchard Wildlife Management Areas (WMAs) (0.5 mile south of the Facility site). However, the discussion of the proximity of the Facility to these federal and state natural resources requires additional development in order for the Office to evaluate the Applicant's proposed avoidance, minimization and mitigation measures, in compliance with 19 NYCRR §900-2.13.

- a) Please supplement Exhibit 12 to include additional detail demonstrating the location of the proposed Facility to these natural resources, and the Applicant's proposed measures to avoid, minimize and/or mitigate potential significant adverse impacts to threatened or endangered species, species of special concern, and unlisted species to the maximum extent practicable.¹
- b) This supplement should evaluate and determine appropriate setbacks from the Facility site and the Iroquois National Wildlife Refuge and other State WMAs, in instances where proximity to these natural resources is relevant.
- c) Please include additional details demonstrating the Applicant's relevant avoidance strategies. For example, and without limitation, Exhibit 12 states that higher quality habitat areas (including farmland) located off-site at or near the Iroquois NWR, Tonawanda WMA, and Oak Orchard WMA were not pursued for Facility development and have been avoided. Please substantiate this statement with appropriate detail.
- d) Given this additional site-specific background, please expand the discussion of how the Applicant's siting, distancing and other measures will avoid, minimize and/or mitigate potential significant adverse impacts to these species, and achieve a net conservation benefit

¹ Since many of these measures may also benefit unlisted species, the Office requests that the Applicant consolidate discussion of unlisted species, normally listed in Exhibit 11, with this discussion in Exhibit 12, with cross-references in each Exhibit as appropriate.

with respect to any threatened and/or endangered species impacted by the Facility in compliance with Executive Law §94-c(3)(d).

- e) Please update Exhibit 12 with any information concerning the Applicant's additional consultation with USFWS (if any), and any feedback received from USFWS on the Applicant's proposed measures to avoid, minimize and/or mitigate potential impact(s) to all species of plant and animal wildlife, given the proximity of the Facility to the USFWS Iroquois National Wildlife Refuge.

To the extent this information or detail is provided in other Application Exhibits, cross-references to these Exhibits would be acceptable for the Office's review (with supporting explanation(s), where required). The Office acknowledges that some of the detail requested in this section will require redaction in accordance with applicable provisions of the Environmental Conservation Law.

Exhibit 13 - Water Resources and Aquatic Ecology

1. 19 NYCRR §900-2.14(b)(3) requires "[f]or the surface waters depicted on the map(s) required in paragraph (1) of this subdivision, a description of the New York State listed Water Quality Standards and Classification, ambient standards and guidance values, flow, presence of aquatic invasive species and other characteristics of such surface waters, including intermittent streams, based on actual on-site surface water observations conducted pursuant to section 900.1-3(f) of this Part." The Application only contains water quality standards and classifications for delineated surface waters; it does not contain the ambient standards and guidance values. Please provide the ambient standards and guidance values, which can be found on the NYSDEC website at:
https://www.dec.ny.gov/docs/water_pdf/togs111.pdf.

Exhibit 14 - Wetlands

The information provided in Exhibit 14 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.15.

1. 19 NYCRR §900-2.15(a) requires "[a] map or series of maps showing jurisdictional boundaries of all federal, state and

locally regulated wetlands and adjacent areas present on the facility site and within one hundred (100) feet of areas to be disturbed..." Please revise all maps of state jurisdictional wetlands to include 100-foot adjacent areas and label it "State-Regulated Adjacent Area."

2. 19 NYCRR §900-2.15(c) requires "[a] qualitative and descriptive wetland functional assessment, including seasonal variations, for all delineated wetlands that would be impacted..." Please supplement Appendix 14-A of the Wetland Delineation Report with the Wetland Functional Assessment for all delineated wetlands that would be impacted by the Facility.
3. 19 NYCRR §900-2.15(d) requires "[a]n analysis of all off-site wetlands within one hundred (100) feet beyond the limit of disturbance...to determine their general characteristics and relationship...to delineated wetlands." The Application indicates "[n]o impacts to state-jurisdictional wetlands, including unmapped freshwater wetlands, will occur as a result of Facility construction or operation." The proposed Facility includes security fencing within jurisdictional wetlands and PV arrays are closely sited to wetlands that will impact state-jurisdictional wetlands during construction and operational maintenance. Please revise statements addressing §900-2.15(d) requirements accordingly.
4. 19 NYCRR §900-2.15(e) requires "...a demonstration of avoidance of impacts to such wetlands and their one hundred (100)-foot adjacent areas by siting all components more than one hundred (100) feet from any delineated NYS wetlands." Based on Exhibit 14 maps and Application shapefiles dated July 28, 2021, the proposed Facility includes approximately sixty (60) feet of security fencing in jurisdictional wetlands 004, 005, and 009. PV arrays are sited within ten (10) feet of jurisdictional wetlands 004 and 009 and less than twenty (20) feet from wetlands F-005 and 022. Thousands of feet of fencing are sited within the adjacent areas of wetlands 004, 005, 008, 009, 010, and 022. Please revise the content and title of Table 14-1 to include impacts to jurisdictional wetlands, including those that will occur during construction and repetitive maintenance of vegetation both within and beyond security fence lines. Please revise the units in Table 14-1 to present impact figures in acres instead of square feet. Impacts to wetlands and wetland

adjacent areas should not be categorized as "permanent" or "temporary." Neither 19 NYCRR §900-2.15 nor the USACE New England District Highway Methodology Workbook Supplement use these terms. Total impact figures and summary tables of wetland and adjacent area impacts should be presented without temporal classifications.

5. 19 NYCRR §900-2.15(f) requires "...an explanation of all efforts the applicant made to minimize the impacts to wetlands and adjacent areas identified during wetland surveys." For each wetland and adjacent area in which impacts are unavoidable, pursuant to 19 NYCRR §§900-2.15(f) (1), (2), (3) and (4), please provide an impact minimization summary explaining: "(1)[w]hy the facility design and siting cannot avoid..." each wetland and adjacent area; "(2)[h]ow the facility design has minimized proposed impacts to NYS wetlands and adjacent areas...;" "(3)[h]ow the facility design and siting minimize impacts to NYS wetlands...and the function and values currently provided by these wetlands;" and "(4)[h]ow the facility design and siting will maximize and/or improve the function and values provided by the remaining adjacent areas surrounding the NYS wetlands."

Exhibit 15 - Agricultural Resources

The information provided in Exhibit 15 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.16. In order for the Office to complete its overall evaluation of the proposed Facility, including potential cumulative and other impacts on agricultural resources, please provide the following:

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 Facility footprint. Please clarify Exhibit 15, section (a) (8) to include statistics for the acreage of the Facility footprint, the total acreage of agricultural production areas within that footprint, and the total acreage and percentage of agricultural production areas potentially impacted.
2. 19 NYCRR §900-2.16(b) (1) requires "[f]ield-verified active agriculture land use (including all lands involved in the production of crops, livestock and livestock products for

three (3) of the last five (5) years).” Please supplement Exhibit 15 with a discussion regarding the field verification process and the past agricultural land use on the properties where landowners did not respond to the letter survey.

3. 19 NYCRR §900-2.16(b)(4) requires the Applicant to prepare maps showing the location of known or suspected sub-surface drainage systems (including outlets), surface drainage, irrigation lines, or other unique agricultural facilities, which are relevant to the Agricultural Plan and Drainage Remediation Plan referenced in the regulations and Application Appendices. Please update Exhibit 15 to confirm that the Applicant’s consultation (as described at Exhibit 15, section (b)(4)), includes County officials and that the Applicant’s submission addresses all features listed in this provision. Please consult the local County Soil & Water Conservation District and USDA-NRCS Office to determine if there are as-built drawings available for the subsurface drainage. Updates to other pertinent Application Exhibits should be included, if required based upon this comment (e.g., Exhibit 5, Appendix 15-A, Appendix 15-B and/or Figure 15-4).

Exhibit 16 - Effects on Transportation

The information provided in Exhibit 16 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.17.

1. 19 NYCRR §900-2.17(a) requires “[a] conceptual site plan, drawn at an appropriate scale, depicting all facility site driveway and roadway intersections showing:(1) horizontal and vertical geometry, the number of approach lanes, the lane widths, shoulder widths, traffic control devices by approaches, and sight distances.” Please supplement Exhibit 16 with a description of the traffic control mitigation measures that may be required for the construction, operation, and decommissioning of the Facility. Please also provide additional information regarding sight distances, whether trees or other obstacles block sight on roadways or new access points, and potential clearing remedies such as tree trimming, etc.
2. 19 NYCRR §900-2.17(b)(2) requires “[a] review of transit facilities and routes, including areas of school bus service.” Please discuss whether the Applicant has consulted

with the three school districts regarding potential impacts to bus routes and provide a summary of the consultations. Please also indicate the locations of bus routes and potential mitigation required due to Facility construction activities, including by way of example and not limitation, potential traffic impacts to East Shelby. If information is not yet available and bus routing is not finalized for the year(s) during which construction of the Facility is anticipated, routing can be provided along with mitigation measures through site specific condition requirements.

3. 19 NYCRR §900-2.17(d) requires "[a]n analysis and evaluation of the traffic and transportation impacts of the facility, including:(4) ...practicable mitigation measures regarding traffic and transportation impacts, including time restrictions, the use of alternative technologies, the construction of physical roadway improvements, the installation of new traffic control devices, and the repair of local roads... during construction or operation of the facility." Please describe how traffic impacts will be mitigated, the traffic control mitigation measures to be implemented for passing on narrow roadways and confirm that sight distance will be adequate.
4. Federal Aviation Administration (FAA) Notice of Proposed Construction or Alteration - 19 NYCRR §900-2.17(f)(1) requires "...[a] statement that the Applicant has: (i) received an informal Department of Defense review of the proposed construction or alteration in accordance with 32 Code of Federal Regulations Section 211.7," or (ii) "[r]eceived a formal Department of Defense review of the proposed construction or alteration in accordance with 32 Code of Federal Regulations Section 211.6..." Please supplement Exhibit 16 with information regarding the status of the Department of Defense (DoD) coordination. If, however, an FAA Notice of Proposed Construction is not required (and therefore, DoD review status is also not warranted), please provide verification of the results of the online FAA Notice Criteria Tool.

Exhibit 17 - Consistency with Energy Planning Objectives

1. 19 NYCRR §900-2.18(d) requires "[a] description of the impact the facility would have on regional requirements for capacity." Please provide a description of the impact the

Facility would have on regional requirements for capacity with energy planning objectives.

Exhibit 18 - Socioeconomic Effects

1. 19 NYCRR §900-2.19(i) requires "[a]n analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and in that regard identifying any specific equipment or training deficiencies in local emergency response capacity (this analysis to be made after consultation with the affected local emergency response organizations)." Please supplement Exhibit 18 with a summary of the comments received by the Applicant, if any, on the Safety Response Plan that was submitted on May 11, 2021, and the local capacity to respond to emergency events at the Facility in the Towns of Barre and Shelby.
2. 19 NYCRR §900-2.19(k) requires "[a] statement as to the host community benefit(s) to be provided by the applicant." Please supplement Exhibit 18 to include any updated information regarding the host community benefits to be provided by the Applicant to the Town of Barre and the Town of Shelby, including a description of the proposed benefits and the form (e.g., payments, other described incentives, etc.).

Exhibit 19 - Environmental Justice

1. 19 NYCRR §900-2.20(a) requires "[a]n identification and evaluation of significant and adverse disproportionate environmental impacts of the facility on an Environmental Justice (EJ) area..." Please revise the evaluations and analyses using updated data which is publicly available on DECinfo Locator or the NYS GIS Clearinghouse.

Exhibit 23 - Site Restoration and Decommissioning

The information provided in Exhibit 23 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.24.

1. 19 NYCRR §900-2.24(a) (3) requires a Decommissioning and Site Restoration Plan that addresses aesthetics. Please supplement

Exhibit 23 with information that discusses treatment of vegetative screening during decommissioning.

2. 19 NYCRR §900-2.24(b) requires "[f]or facilities to be located on lands owned by others, a description of all site restoration, decommissioning and security agreements between the applicant and landowner, municipality, or other entity, including provisions for turbines, foundations, and electrical collection, transmission, and interconnection facilities." Please supplement Exhibit 23 with information clarifying the timeframe for notification and the security agreement with the Towns.
3. 19 NYCRR §900-2.24(c) requires that the Applicant provide for the Towns of Barre and Shelby "[a] gross and net decommissioning and site restoration estimate, the latter including projected salvage value (including reference to the salvage value data source), with line items (and associated dollar amounts)..." Please provide quantities and unit costs for decommissioning activities. Appendix 23-A notes that "[q]uantities and costs were estimated using...a variety of credible sources, current market prices..." Please provide all referenced sources.
4. The Applicant includes in Appendix 23-A an estimate for the value of the Facility panels that will be resold or recycled. ORES does not consider the resale value of Facility components (i.e., solar panels) in the decommissioning estimate. Please update Appendix 23-A by eliminating the resale value and adjust the proposed decommissioning gross and net estimates accordingly.

Exhibit 24 - Local Laws and Ordinances

The information provided in Exhibit 24 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.25.

1. Pursuant to 19 NYCRR §900-2.24(c), the Applicant requests that the Office elect not to apply, in whole or in part, certain local law provisions in the Town of Barre and the Town of Shelby. Some provisions are common to the Towns (e.g., setbacks from unoccupied structures), whereas others approach the same topic differently (e.g., setbacks from participating lot lines in the Town of Shelby) or concern a

topic that is unique to the local laws of a specific municipality (e.g., lot coverage and decommissioning requirements in the Town of Shelby). Comments:

- a) Please provide additional supporting information and detail for each request identified in Exhibit 24. Overall, the discussion of each request requires detailed and issue-specific information, maps and/or tables substantiating the reasons why, in the context of the proposed Solar Facility, the Applicant believes each local law provision is unreasonably burdensome, and that each request is for the minimum relief necessary.²
- b) Additional detail should be provided with respect to any burden(s) imposed. By way of example, and without limitation, if compliance with a particular local law provision would potentially increase significant adverse environmental impacts to another resource or area (e.g., relocation of Facility components to areas under Applicant control that are not slated for development and will serve as buffer areas, or are reserved for agricultural use or potential grassland bird habitat), the relevant facts should be documented in the record so that the reasons for the Applicant's request are appropriately clear.
- c) If the requested relief would result in minimal impact(s) to the surrounding community, please substantiate the Applicant's argument with appropriate supporting information (e.g., and without limitation, supporting site plans and visual impact analyses), which may include new information and/or cross-references to materials already in the record.

² For example, and without limitation, Exhibit 24 does not contain statistical or other support for the 72.2 acres and/or 15 MW of generating capacity that would be lost due to compliance with the Town of Shelby setback requirements, or maps, plans or reports addressing setbacks from relevant Facility improvements to other critical natural resources (such as the adjoining Iroquois National Wildlife Refuge and other State WMAs) where geographically pertinent. The reference to Appendix 2-A for the Town of Shelby setback discussion is insufficient for purposes of Exhibit 24; additional detail is required to support the relief requested.

d) Additionally, a fulsome discussion and demonstration is required for any local law provision which Applicant asserts will preclude construction of the Facility entirely (e.g., and without limitation, the request concerning the Town of Shelby lot coverage limitation). Please update Exhibit 24 to include any additional information concerning review of such issues with Town officials.

Exhibit 25 - Other Permits and Approvals

1. 19 NYCRR §900-2.26(a) requires that “[a] list of any Federal or federally-delegated, or federal or state recognized Indian Nation, permit, consent, approval or license that will be required for the construction or operation of the facility, which shall specify the date on which an application for any such approval was made or the estimated date on which it will be made...” Please provide information regarding the estimated timeline for other permits.