

Siting Board - 17-F-0619 - December 10, 2018

NEW YORK STATE BOARD ON  
ELECTRIC GENERATION SITING AND  
THE ENVIRONMENT

IN THE MATTER OF

Case 17-F-0619 - Application of Hecate Energy Greene 1  
LLC, Hecate Energy Greene 2 LLC, and Hecate Energy Greene  
County 3 LLC for a Certificate of Environmental  
Compatibility and Public Need Pursuant to Article 10 of  
the Public Service Law for Construction of a Solar

Electric Generating Facility Located in the Town of  
Coxsackie, Greene County.

SITING BOARD  
Monday, December 10, 2018  
Albany, New York

JOHN B. RHODES, Chair

Louis Alexander, Department of Environmental Conservation.  
Dr. Elizabeth Lewis-Michl, Department of Health.  
Vincent Ravaschiere, Empire State Development Corporation.  
John Williams, New York State Energy Research and  
Development Authority  
Carol Metz, Ad Hoc Member

1 Siting Board - 17-F-0619 - December 10, 2018

2 (On the record 2:57 p.m.)

3 CHAIRMAN RHODES: Good afternoon. We are  
4 on time.

5 I would like to call this meeting of the  
6 board on Electric Generation Siting and the Environment to  
7 order. Before moving to the agenda, I would like to  
8 introduce each member of the board beginning with the ad  
9 hoc member, Ms. Carol Metz. Thank you, Ms. Metz, for your  
10 service to the board in this matter. And representing the  
11 permanent members of the siting board Louis Alexander,  
12 alternate of Basil Seggos of the Department of  
13 Environmental Conservation, Dr. Elizabeth Lewis-Michael,  
14 alternate of Howard Zucker, Department of Health, Vincent  
15 Ravaschiere alternate of Howard Zemsky, Empire State  
16 Development Corporation who is participating via video  
17 conference from the Department of Public Service's New  
18 York City office. Thank you, Vince.

19 John Williams, alternate of Richard  
20 Kaufman, New York State Energy Research and Development  
21 Authority. And I am John Rhodes of the Public Service  
22 Commission.

23 Secretary Burgess, are there any changes to  
24 the agenda?

25 SECRETARY BURGESS: There's no changes to

1           Siting Board - 17-F-0619 - December 10, 2018

2   the agenda. May I just ask Mr. Ravaschiere, I'm  
3   confirming that you can see us all in Albany?

4           MR. RAVASCHIERE: Yes, I can.

5           SECRETARY BURGESS: Thank you.

6           CHAIRMAN RHODES: Thank you. With that, we  
7   will proceed to the agenda. Case 17-F-0619 request for  
8   interlocutory review filed by Scenic Hudson, Inc. of the  
9   examiner's ruling on intervenor funding requests and  
10   commencement of stipulations process in the application of  
11   Hecate Energy Green One L.L.C., Hecate Energy Green Two  
12   L.L.C., and Hecate Energy Green County Three, L.L.C. for a  
13   certificate of environmental compatibility and public need  
14   pursuant to Article 10 for construction of a solar  
15   electric generating facility located in the Town of  
16   Coxsackie, Greene County presented by John Sipos, Acting  
17   General Counsel. Brian Ossias, Assistant Counsel is  
18   available for questions. John please begin.

19           MR. SIPOS: Thank you. Let me make sure my  
20   mic is on first of all.

21           CHAIRMAN RHODES: It is.

22           MR. SIPOS: Thank you. Good afternoon,  
23   Chair Rhodes, siting board members and designees.

24           The matter before this siting board today  
25   concerns a interlocutory appeal by a party in the Hecate

1           Siting Board - 17-F-0619 - December 10, 2018  
2   Article 10 proceeding from an earlier ruling by the  
3   examiners denying intervenor funding. The focus of the  
4   proposed draft order before you in my briefing will be on  
5   the procedural question and posture of whether the siting  
6   board should consider the appeal at this juncture.

7           Specifically, in this case, the hearing  
8   examiners denied Scenic Hudson's request for intervenor  
9   funding for the preliminary preapplication stage of this  
10   proceeding. The examiners found that Scenic Hudson's  
11   application for funds did not sufficiently demonstrate an  
12   entitlement to funding for the preliminary phase. And as  
13   noted, this is an interlocutory appeal and under the  
14   applicable regulatory standard which is 16 N.Y.C.R.R.  
15   Section 4.7, such appeals ordinarily should not be heard  
16   unless there are extraordinary circumstances.

17           The recommended determination in the draft  
18   order before the siting board today is that Scenic  
19   Hudson's interlocutory appeal does -- does not sustain its  
20   burden of establishing extraordinary circumstances as  
21   required by Section 4.7. And contrary to Scenic Hudson's  
22   contentions, it is not the case that the examiner's ruling  
23   here denying the funding request constitutes or places  
24   Scenic Hudson in an extraordinary circumstance.

25           The ruling declining the organization's

1           Siting Board - 17-F-0619 - December 10, 2018  
2   request for approximately four thousand five hundred  
3   dollars will not significantly limit Scenic Hudson's  
4   ability to participate in this particular aspect of the  
5   proceeding. And, in addition, Scenic Hudson's funding  
6   request was unique and specific to the procedural  
7   situation at hand at the time as was the examiner's  
8   ruling. Thus, Scenic Hudson's argument that the ruling  
9   will limit Scenic Hudson as well as other environmental  
10   organizations and other Public Service Law Article 10  
11   proceedings misses the mark.

12                   This concludes our presentation. Brian and  
13   I would be happy to answer any questions that the board  
14   may have.

15                   CHAIRMAN RHODES: Thank you, John. My own  
16   view is that the law in these matters is -- is clear and  
17   well presented by you. And the facts in this matter are  
18   clear and well presented by you. So I will -- I will be  
19   voting in favor of the recommendation based on the  
20   straightforwardness of the -- the presentation as they  
21   have just given.

22                   Let me turn to my colleagues on the board.  
23   Going from my right all the way to New York City.

24                   MR. ALEXANDER: Mr. Chairman, I have no  
25   questions regarding this order.

1 Siting Board - 17-F-0619 - December 10, 2018

2 DR. LEWIS-MICHAEL: Yeah, I also have no  
3 questions.

4 CHAIRMAN RHODES: Ms. Metz?

5 MS. METZ: And I have no questions.

6 CHAIRMAN RHODES: John Williams?

7 MR. WILLIAMS: No questions.

8 CHAIRMAN RHODES: In New York, Vince  
9 Ravaschiere?

10 MR. RAVASCHIERE: No questions. Thank you.

11 CHAIRMAN RHODES: With that let us proceed  
12 to a vote on the matter. My vote is in favor of the  
13 recommendation to -- to deny the request for interlocutory  
14 review filed by Scenic Hudson, Inc. as described. Mr.  
15 Alexander how do you vote?

16 MR. ALEXANDER: My vote is also in favor.

17 CHAIRMAN RHODES: Dr. Lewis-Michael?

18 DR. LEWIS-MICHAEL: Also in favor.

19 CHAIRMAN RHODES: Ms. Metz?

20 MS. METZ: My vote is in favor.

21 CHAIRMAN RHODES: Mr. Williams?

22 MR. WILLIAMS: In favor.

23 CHAIRMAN RHODES: Mr. Ravaschiere?

24 MR. RAVASCHIERE: In favor.

25 CHAIRMAN RHODES: The matter is approved

1                   Siting Board - 17-F-0619 - December 10, 2018

2           and the recommendation is adopted. Secretary Burgess, is  
3           there anything further to come before us today?

4                   SECRETARY BURGESS: There is nothing  
5           further to come before you today.

6                   CHAIRMAN RHODES: With that we are  
7           adjourned. Thank you very much.

8                   (Off the record 3:04 p.m.)

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1                   Siting Board - 17-F-0619 - December 10, 2018

2       STATE OF NEW YORK

3       I, CYNTHIA TORNATORE, do hereby certify that the  
4       foregoing was reported by me, in the cause, at the  
5       time and place, as stated in the caption hereto, at  
6       Page 1 hereof; that the foregoing typewritten  
7       transcription consisting of pages 1 through 7, is a  
8       true record of all proceedings had at the hearing.

9                   IN WITNESS WHEREOF, I have hereunto  
10       subscribed my name, this the 17th day of December,  
11       2018.

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14       CYNTHIA TORNATORE, Reporter

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<b>A</b>	
<b>ability</b> 5:4	<b>Chairman</b> 2:2 3:6,21 5:15,24 6:4 6:6,8,11,17,19,21,23,25 7:6
<b>Acting</b> 3:16	<b>changes</b> 2:22,24
<b>ad</b> 1:22,22 2:7	<b>circumstance</b> 4:24
<b>addition</b> 5:5	<b>circumstances</b> 4:16,20
<b>adjourned</b> 7:7	<b>City</b> 2:17 5:23
<b>adopted</b> 7:2	<b>clear</b> 5:16,18
<b>afternoon</b> 2:2 3:22	<b>colleagues</b> 5:22
<b>agenda</b> 2:6,23 3:2,7	<b>come</b> 7:3,5
<b>Albany</b> 1:12 3:3	<b>commencement</b> 3:10
<b>Alexander</b> 1:19 2:10 5:24 6:15 6:16	<b>Commission</b> 2:21
<b>alternate</b> 2:11,13,14,18	<b>compatibility</b> 1:7 3:13
<b>answer</b> 5:13	<b>concerns</b> 3:25
<b>appeal</b> 3:25 4:6,13,19	<b>concludes</b> 5:12
<b>appeals</b> 4:15	<b>conference</b> 2:16
<b>applicable</b> 4:14	<b>confirming</b> 3:3
<b>application</b> 1:5 3:10 4:11	<b>Conservation</b> 1:19 2:12
<b>approved</b> 6:25	<b>consider</b> 4:6
<b>approximately</b> 5:2	<b>consisting</b> 8:7
<b>argument</b> 5:8	<b>constitutes</b> 4:23
<b>Article</b> 1:7 3:14 4:2 5:10	<b>construction</b> 1:7 3:14
<b>aspect</b> 5:4	<b>contentions</b> 4:22
<b>Assistant</b> 3:17	<b>contrary</b> 4:21
<b>Authority</b> 1:21 2:20	<b>Corporation</b> 1:20 2:15
<b>available</b> 3:18	<b>Counsel</b> 3:17,17
	<b>County</b> 1:6,8 3:12,16
	<b>Coxsackie</b> 1:8 3:16
	<b>CYNTHIA</b> 8:3,14
<b>B</b>	<b>D</b>
<b>B</b> 1:18	<b>day</b> 8:10
<b>based</b> 5:19	<b>December</b> 1:1,11 2:1 3:1 4:1 5:1 6:1 7:1 8:1,10
<b>Basil</b> 2:11	<b>declining</b> 4:25
<b>beginning</b> 2:7	<b>demonstrate</b> 4:11
<b>board</b> 1:1,11 2:1,5,7,9,10 3:1 3:23,24 4:1,6,18 5:1,13,22 6:1 7:1 8:1	<b>denied</b> 4:8
<b>Brian</b> 3:17 5:12	<b>deny</b> 6:13
<b>briefing</b> 4:4	<b>denying</b> 4:3,23
<b>burden</b> 4:20	<b>Department</b> 1:2,19,20 2:11,13,16
<b>Burgess</b> 2:22,24 3:5 7:2,4	<b>described</b> 6:14
	<b>designees</b> 3:23
<b>C</b>	<b>determination</b> 4:17
<b>call</b> 2:4	<b>Development</b> 1:20,21 2:15,19
<b>caption</b> 8:5	<b>dollars</b> 5:3
<b>Carol</b> 1:22 2:8	<b>Dr</b> 1:20 2:12 6:2,17,18
<b>case</b> 1:5 3:7 4:7,22	<b>draft</b> 4:4,17
<b>cause</b> 8:4	
<b>certificate</b> 1:6 3:13	<b>E</b>
<b>certify</b> 8:3	<b>earlier</b> 4:2
<b>Chair</b> 1:18 3:23	<b>electric</b> 1:8 2:5 3:15

<b>Elizabeth</b> 1:20 2:12	<b>Hudson</b> 3:8 4:24 5:9 6:14
<b>Empire</b> 1:20 2:14	<b>Hudson's</b> 4:8,10,19,21 5:3,5,8
<b>Energy</b> 1:5,6,6,21 2:19 3:11,11 3:12	<b>hundred</b> 5:2
<b>entitlement</b> 4:12	<b>I</b>
<b>Environment</b> 2:5	<b>interlocutory</b> 3:8,25 4:13,19 6:13
<b>environmental</b> 1:6,19 2:12 3:13 5:9	<b>intervenor</b> 3:9 4:3,8
<b>establishing</b> 4:20	<b>introduce</b> 2:7
<b>examiner's</b> 3:9 4:22 5:7	<b>J</b>
<b>examiners</b> 4:3,8,10	<b>Joan</b> 1:22
<b>extraordinary</b> 4:16,20,24	<b>John</b> 1:18,21 2:18,20 3:16,18 5:15 6:6
<b>F</b>	<b>juncture</b> 4:6
<b>facility</b> 1:8 3:15	<b>K</b>
<b>facts</b> 5:17	<b>Kaufman</b> 2:19
<b>favor</b> 5:19 6:12,16,18,20,22,24	<b>L</b>
<b>filed</b> 3:8 6:14	<b>L.L.C</b> 3:11,12,12
<b>first</b> 3:20	<b>law</b> 1:7 5:10,16
<b>five</b> 5:2	<b>Lewis-Michael</b> 2:12 6:2,17,18
<b>focus</b> 4:3	<b>Lewis-Michl</b> 1:20
<b>foregoing</b> 8:4,6	<b>limit</b> 5:3,9
<b>found</b> 4:10	<b>LLC</b> 1:6,6,6
<b>four</b> 5:2	<b>located</b> 1:8 3:15
<b>funding</b> 3:9 4:3,9,12,23 5:5	<b>Louis</b> 1:19 2:10
<b>funds</b> 4:11	<b>M</b>
<b>further</b> 7:3,5	<b>mark</b> 5:11
<b>G</b>	<b>matter</b> 1:4 2:9 3:24 5:17 6:12 6:25
<b>General</b> 3:17	<b>matters</b> 5:16
<b>generating</b> 1:8 3:15	<b>meeting</b> 2:4
<b>Generation</b> 2:5	<b>member</b> 1:22,22 2:7,8
<b>given</b> 5:21	<b>members</b> 2:10 3:23
<b>Going</b> 5:23	<b>Metz</b> 1:22 2:8,8 6:4,5,19,20
<b>Good</b> 2:2 3:22	<b>mic</b> 3:20
<b>Green</b> 3:11,11,12	<b>misses</b> 5:11
<b>Greene</b> 1:5,6,6,8 3:16	<b>Monday</b> 1:11
<b>H</b>	<b>moving</b> 2:6
<b>hand</b> 5:7	<b>N</b>
<b>happy</b> 5:13	<b>N.Y.C.R.R</b> 4:14
<b>Health</b> 1:20 2:13	<b>name</b> 8:10
<b>heard</b> 4:15	<b>need</b> 1:7 3:13
<b>hearing</b> 4:7 8:8	<b>New</b> 1:2,12,21 2:16,19 5:23 6:8 8:2
<b>Hecate</b> 1:5,6,6 3:11,11,12,25	<b>noted</b> 4:13
<b>hereof</b> 8:6	
<b>hereto</b> 8:5	
<b>hereunto</b> 8:9	
<b>hoc</b> 1:22,22 2:8	
<b>Howard</b> 2:13,14	

<b>O</b>	
<b>office</b> 2:17	<b>reported</b> 8:4
<b>order</b> 2:6 4:4,18 5:25	<b>Reporter</b> 8:14
<b>ordinarily</b> 4:15	<b>representing</b> 2:9
<b>organization's</b> 4:25	<b>request</b> 3:7 4:8,23 5:2,6 6:13
<b>organizations</b> 5:10	<b>requests</b> 3:9
<b>Ossias</b> 3:17	<b>required</b> 4:21
<b>P</b>	<b>Research</b> 1:21 2:19
<b>p.m.</b> 2:2 7:8	<b>review</b> 3:8 6:14
<b>Page</b> 8:6	<b>Rhodes</b> 1:18 2:2,20 3:6,21,23
<b>pages</b> 8:7	5:15 6:4,6,8,11,17,19,21,23
<b>participate</b> 5:4	6:25 7:6
<b>participating</b> 2:15	<b>Richard</b> 2:18
<b>particular</b> 5:4	<b>right</b> 5:23
<b>party</b> 3:25	<b>ruling</b> 3:9 4:2,22,25 5:8,8
<b>permanent</b> 2:10	<b>S</b>
<b>phase</b> 4:12	<b>Scenic</b> 3:8 4:8,10,18,21,24 5:3
<b>place</b> 8:5	5:5,8,9 6:14
<b>places</b> 4:23	<b>Secretary</b> 2:22,24 3:5 7:2,4
<b>please</b> 3:18	<b>Section</b> 4:15,21
<b>posture</b> 4:5	<b>see</b> 3:3
<b>preapplication</b> 4:9	<b>Seggos</b> 2:11
<b>preliminary</b> 4:9,12	<b>service</b> 1:2,7 2:9,20 5:10
<b>presentation</b> 5:12,20	<b>Service's</b> 2:16
<b>presented</b> 3:16 5:17,18	<b>significantly</b> 5:3
<b>procedural</b> 4:5 5:6	<b>Sipos</b> 3:16,19,22
<b>proceed</b> 3:7 6:11	<b>siting</b> 1:1,11 2:1,5,10 3:1,23
<b>proceeding</b> 4:2,10 5:5	3:24 4:1,5,18 5:1 6:1 7:1 8:1
<b>proceedings</b> 5:11 8:8	<b>situation</b> 5:7
<b>process</b> 3:10	<b>solar</b> 1:7 3:14
<b>proposed</b> 4:4	<b>specific</b> 5:6
<b>public</b> 1:2,7,7 2:16,20 3:13	<b>Specifically</b> 4:7
5:10	<b>stage</b> 4:9
<b>pursuant</b> 1:7 3:14	<b>standard</b> 4:14
<b>Q</b>	<b>State</b> 1:2,20,21 2:14,19 8:2
<b>question</b> 4:5	<b>stated</b> 8:5
<b>questions</b> 3:18 5:13,25 6:3,5,7	<b>stipulations</b> 3:10
6:10	<b>straightforwardness</b> 5:20
<b>R</b>	<b>subscribed</b> 8:10
<b>Ravaschiere</b> 1:20 2:14 3:2,4 6:9	<b>sufficiently</b> 4:11
6:10,23,24	<b>sure</b> 3:19
<b>recommendation</b> 5:19 6:13 7:2	<b>sustain</b> 4:19
<b>recommended</b> 4:17	<b>T</b>
<b>record</b> 2:2 7:8 8:8	<b>Thank</b> 2:8,17 3:5,6,19,22 5:15
<b>regarding</b> 5:25	6:10 7:7
<b>regulatory</b> 4:14	<b>thousand</b> 5:2
	<b>Three</b> 3:12
	<b>time</b> 2:3 5:7 8:5
	<b>today</b> 3:24 4:18 7:3,5

<b>TORNATORE</b> 8:3,14	<b>2:57</b> 2:2
<b>Town</b> 1:8 3:15	<b>2018</b> 1:1,11 2:1 3:1 4:1 5:1 6:1
<b>transcription</b> 8:7	7:1 8:1,11
<b>Treadwell-Woods</b> 1:22	<hr/>
<b>true</b> 8:8	<b>3</b>
<b>turn</b> 5:22	<hr/>
<b>Two</b> 3:11	<b>3 1:6</b>
<b>typewritten</b> 8:6	<b>3:04</b> 7:8
<hr/>	<hr/>
<b>U</b>	<b>4</b>
<hr/>	<hr/>
<b>unique</b> 5:6	<b>4.7</b> 4:15,21
<hr/>	<hr/>
<b>V</b>	<b>5</b>
<hr/>	<hr/>
<b>video</b> 2:15	<b>6</b>
<b>view</b> 5:16	<hr/>
<b>Vince</b> 2:17 6:8	<b>7</b>
<b>Vincent</b> 1:20 2:13	<hr/>
<b>vote</b> 6:12,12,15,16,20	<b>7 8:7</b>
<b>voting</b> 5:19	<hr/>
<hr/>	<b>8</b>
<b>W</b>	<hr/>
<hr/>	<b>9</b>
<b>way</b> 5:23	<hr/>
<b>WHEREOF</b> 8:9	
<b>Williams</b> 1:21 2:18 6:6,7,21,22	
<b>WITNESS</b> 8:9	
<hr/>	
<b>X</b>	
<hr/>	
<b>Y</b>	
<hr/>	
<b>Yeah</b> 6:2	
<b>York</b> 1:2,12,21 2:17,19 5:23 6:8	
8:2	
<hr/>	
<b>Z</b>	
<hr/>	
<b>Zemsky</b> 2:14	
<b>Zucker</b> 2:13	
<hr/>	
<b>0</b>	
<hr/>	
<b>1</b>	
<hr/>	
<b>1</b> 1:5 8:6,7	
<b>10</b> 1:1,7,11 2:1 3:1,14 4:1,2	
5:1,10 6:1 7:1 8:1	
<b>16</b> 4:14	
<b>17-F-0619</b> 1:1,5 2:1 3:1,7 4:1	
5:1 6:1 7:1 8:1	
<b>17th</b> 8:10	
<hr/>	
<b>2</b>	
<hr/>	
<b>2</b> 1:6	