

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE
OFFICE OF RENEWABLE ENERGY SITING
AND ELECTRIC TRANSMISSION

COMBINED NOTICE OF AVAILABILITY OF DRAFT PERMIT CONDITIONS, PUBLIC
COMMENT PERIOD AND PUBLIC COMMENT HEARING, AND COMMENCEMENT OF
ISSUES DETERMINATION PROCEDURE

Applicant: Foothills Solar LLC
c/o Boralex, Inc.
174 Mill Street, Suite 201
Milton, Ontario L9T 1S2
Attn: Mike Peckford

Facility Location: Town of Mayfield and Village of Mayfield, Fulton County, New York

Applicant's Attorney: James Muscato II, Esq.
Young / Sommer LLC
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Albany, NY 12205
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ORES Permit Application No.: 23-00046

Facility Description: Applicant applied to the New York State Office of Renewable Energy Siting and Electric Transmission (Office or ORES) for a permit pursuant to Public Service Law Article VIII to construct and operate a 40-megawatt (MW) solar energy facility located in the Town of Mayfield and Village of Mayfield, Fulton County.

Applicant filed the application with the Office on December 6, 2023. A notice of complete application was issued on June 25, 2024 (see <https://ores.ny.gov/permit-applications>, click on Project Permit Application Number 23-00046).

ORES staff published draft permit conditions on August 26, 2024. The draft permit conditions may be accessed at <https://ores.ny.gov/permit-applications>, click on Project Permit Application Number 23-00046.

ORES Staff Position: On issuing the draft permit conditions, ORES staff takes the position that the proposed facility, together with the uniform and site-specific standards and conditions contained in the draft permit, would comply with applicable laws and regulations. ORES staff recommends that the Office elect not to apply, in whole or in part, any local law or ordinance that as applied to the facility is unreasonably burdensome in view of the Climate Leadership and Community Protection Act targets and the environmental benefits of the proposed facility.

Public Comment Hearing: A public comment hearing pursuant to 16 NYCRR part 1100 to hear and receive unsworn comments from the public will be held at the **Paul Nigra Center for Creative Arts, 2736 NY-30, Gloversville, NY 12078** on **Tuesday, October 29, 2024, at 6:00 p.m.**

All persons, organizations, corporations, or government agencies who may be affected by the facility are invited to attend the hearing and comment on the application and the draft permit conditions. Lengthy comments will not be accepted and instead should be submitted in writing. Equal weight will be given to both oral and written comments. To ensure that all interested persons have an opportunity to speak, the Administrative Law Judges (ALJs) may limit the time available for oral comments to three (3) minutes per person. The public comment hearing will be transcribed for inclusion in the administrative record.

The hearing location is reasonably accessible to persons with a mobility impairment. Interpreter services shall be made available to deaf persons, and English language translator services shall also be made available, at no charge for either service, upon written request to Chief ALJ James T. McClymonds, Office of Renewable Energy Siting and Electric Transmission, Empire State Plaza, P-1 South, J Dock, Albany, NY 12242, (518) 473-4590, hearings@ores.ny.gov. All requests must be received no later than 4:00 p.m. on October 15, 2024.

In the event that the in-person public comment hearing needs to be canceled, rescheduled, postponed, or conducted virtually, notification of any change will be available at the ORES website at <https://ores.ny.gov>.

Written Public Comments: Written comments concerning the application and the draft permit conditions must be filed with ORES by **5:00 p.m. on Friday, November 1, 2024**. Persons filing written comments are strongly encouraged to post their comments on the ORES Permit Application Portal (ORES Portal). To post a comment, go to <https://ores.ny.gov>, click on “Permit Applications,” click on Project Permit Application Number 23-00046 and click on “Post Comments” in the upper right-hand corner of the screen.

Written comments may also be emailed to ORES at hearings@ores.ny.gov or mailed to the Office of Renewable Energy Siting and Electric Transmission, Empire State Plaza, P-1 South, J Dock, Albany, NY 12242. Written comments will be considered equally with oral statements delivered at the public comment hearing, provided they are postmarked by **Friday, November 1, 2024**, or e-mailed or posted on the ORES Portal by 5:00 p.m. on that date.

Please take notice that written public comments will be publicly posted on the ORES Portal. ORES reserves the right not to post duplicate or repeat comments. In addition, ORES reserves the right to remove, without notice, comments containing any defamatory, infringing, obscene, indecent, discriminatory, confidential, or unlawful material or information of any kind.

Issues Determination Procedure: Pursuant to 16 NYCRR 1100-8.3(b), a pre-adjudicatory issues determination procedure will be conducted by the assigned ALJs. The procedure will be conducted solely on papers and briefing unless the ALJs, in the judges’ sole discretion, determine that oral argument is necessary. The purpose of the issues conference is to determine

party status for any person or organization that has properly filed a petition (as indicated below), and to narrow and define those issues, if any, that will require adjudication in this matter. Participation in the issues determination procedure is limited to ORES staff, applicant, and those persons or organizations requesting party status.

Filing for Party Status and Proposed Issues: Persons seeking to participate in the issues determination procedure and any subsequent adjudicatory hearing must register on the ORES Portal and file a written petition explaining whether their request is for full party status or amicus status. For the required contents of petitions for full party status, see 16 NYCRR 1100-8.4(c)(1) and (2). To determine whether an issue is substantive and significant, see 16 NYCRR 1100-8.3(c)(2) and (3). For the required contents of a petition seeking amicus status, see 16 NYCRR 1100-8.4(c)(1) and (3). Petitioners may also file written briefs making arguments in support of their petitions.

All petitions requesting party status and briefs in support must be E-Filed on the ORES Portal no later than **4:00 p.m. on Monday, November 4, 2024**. Instructions for registering on the ORES Portal and E-Filing documents may be found at:

https://ores.ny.gov/system/files/documents/2022/06/ores-pap-registration-user-guide-v3_0.pdf.

Address all petitions to John L. Favreau, Administrative Law Judge, New York State Office of Renewable Energy Siting and Electric Transmission, Department of Public Service, Empire State Plaza, P-1 South, J Dock, Albany, NY 12242, telephone: (518) 473-4590, email:

john.favreau@dps.ny.gov; and Christopher McEneney Chan, Administrative Law Judge, New York State Office of Renewable Energy Siting and Electric Transmission, Department of Public Service, Empire State Plaza, P-1 South, J Dock, Albany, NY 12242, telephone: (518) 473-4590, email: christopher.mceneneychan@dps.ny.gov.

At the same time petitions and briefs are E-Filed on the ORES Portal, a copy of all papers must be emailed to the ALJs at the email address above, and furnished to applicant Foothills Solar LLC's attorney, James Muscato II, Esq., Young / Sommer LLC, Executive Woods, Five Palisades Drive, Albany, NY 12205, (518) 438-9907, jmuscato@youngsommer.com; and to ORES at the Office of Renewable Energy Siting and Electric Transmission, Empire State Plaza, P-1 South, J Dock, Albany, NY 12242, (518) 473-4590, hearings@ores.ny.gov. Service of petitions and briefs by email is authorized provided they are received by all of the above parties and the ALJs by the 4:00 p.m. deadline.

Any questions about filing requirements or other hearing procedures may be addressed to Chief ALJ James T. McClymonds by telephone at (518) 473-4583. ORES's regulations may be found at <https://ores.ny.gov/regulations>.

Statement of Compliance with Local Laws and Regulations: Any municipality, political subdivision or an agency thereof that received notice of the filing of the application pursuant to 19 NYCRR former 900-1.6(a) (now 16 NYCRR 1100-1.6[a]) must file a statement indicating whether the proposed facility is designed to be sited, constructed and operated in compliance with applicable local laws and regulations in effect as of June 25, 2024, if any, concerning the environment, or public health and safety. The statement must be filed and served by **4:00 p.m.**

on Monday, November 4, 2024, in the same manner as petitions for party status. **Any municipality, political subdivision, or an agency thereof that proposes to adjudicate any issues related to a facility's compliance with local laws and regulations must file a petition for party status as provided for in 16 NYCRR 1100-8.4(c) and include the statement of compliance with local laws and regulations.**

Applicant Statement of Issues: No later than **4:00 p.m. on Monday, November 4, 2024**, applicant shall file and serve on ORES staff and the ALJs a statement of issues applicant intends to raise with respect to any determination of the Office, and briefing in support. Applicant shall serve the statement of issues and brief on persons filing petitions for party status within five (5) days of such filing. For the required contents of an applicant's statement of issues, see 16 NYCRR 1100-8.4(b)(1).

Responsive Briefing and Response to Comments: No later than **4:00 p.m. on Monday, November 25, 2024**, ORES staff may file and serve a response to any petitions for party status, any statement of issues by applicant, and the statement of compliance with local laws and regulations. By the same deadline, applicant may file and serve a response to any petition for party status or statement of compliance with local laws and regulations. In addition, the applicant shall file and serve on ORES staff a response to public comments received during the public comment period, including any supplemental information.

Document Availability: Copies of all application materials and draft permit conditions are available for inspection at the Office's Albany office during normal business hours: Contact the Office of Renewable Energy Siting and Electric Transmission, W.A. Harriman Campus, Building 9, 4th Floor, 1220 Washington Avenue, Albany, NY 12227, (518) 473-4590, hearings@ores.ny.gov. Electronic copies are available at <https://ores.ny.gov/permit-applications>, click on Project Permit Application Number 23-00046.

Copies of all application materials are also available at:

Mayfield Town Hall and Mayfield Village Hall
Attn: Nancy Parker, Town Clerk
Mayfield Municipal Complex
28 North School Street,
Mayfield, NY 12117

Gloversville Public Library
Attn: Valerie Acklin, Library Director
58 East Fulton Street
Gloversville, NY 12078

Statutory and Regulatory Provisions: The application is being processed and this proceeding is being conducted according to New York Public Service Law article VIII and 16 NYCRR part 1100.

James T. McClymonds

Chief Administrative Law Judge

August 26, 2024
Albany, New York