

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

ORES DMM Number 23-03002 - Application of AGRICOLA WIND, LLC, for a Major Renewable Energy Facility Siting Permit Pursuant to Article VIII of the New York State Public Service Law to Develop, Design, Construct, Operate, Maintain, and Decommission a 99-Megawatt (MW) Wind Energy Facility Located in the Towns of Scipio and Venice, Cayuga County.

RULING AWARDING LOCAL AGENCY ACCOUNT FUNDS

March 13, 2025

HENRY JAMES JOSEPH and JOHN L. FAVREAU,  
Administrative Law Judges:

Introduction

In this ruling, local agency account funding is awarded as follows: Town of Scipio is awarded \$37,125.00; Town of Venice is awarded \$37,125.00; Alliance for the Preservation of the Finger Lakes is awarded \$24,750.00.

Proceedings

On November 8, 2024, Agricola Wind, LLC (applicant), filed an application seeking a siting permit to develop, design, construct, operate, maintain, and decommission a solar energy facility with a nameplate generating capacity of up to 99 megawatts (MW), in the Towns of Scipio and Venice, Cayuga County. The facility is proposed to include the installation and operation of up to 24 wind turbines and associated support facilities, including a medium voltage collection system, gravel access roads, two permanent meteorological (MET) towers, an aircraft detection lighting system (ADLS) tower, temporary construction laydown areas, a temporary concrete batch plant, an operation and maintenance (O&M) facility, a medium voltage-to-transmission voltage collection substation, a point of interconnection (POI) switchyard, and a

short 115 kV overhead transmission line that would connect the facility to the electric grid via the 115 kV overhead Wright Avenue-Milliken electric transmission line owned and operated by New York State Electric and Gas Company (NYSEG).

With the application, applicant submitted the required local agency account fee in the amount of \$99,000. On November 12, 2024, a notice of application filing and availability of local agency account funding (LAAF) was issued directing eligible municipal and potential community intervenors to submit their requests for funding by 4:30 p.m., December 12, 2024.

On December 11, 2024, the Town of Scipio filed a request for an award of \$49,500.00 to hire the legal firm of Bond, Schoenenck & King PLLC (Bond), as attorneys, and the engineering firm of Hunt Engineers, Architects, Land Surveyors & Landscape Architect DPC (Hunt).<sup>1</sup> On December 12, 2024, the Town of Venice filed a request for an award of \$49,500.00 to hire the Blair Law Firm, PLLC, as attorneys, and Hunt as their engineers.<sup>2</sup> That same day the Cayuga County Public Utility Service Agency (CCPUSA) filed a request for \$74,250.00 to hire the legal firm of Duncan, Weinberg, Genzer & Pembroke, P.C., as attorneys and stated their intention to issue a request for proposals for technical consulting services.<sup>3</sup> Also on December 12, 2024, the Alliance for the Preservation of the Finger Lakes (APFL), a proposed community intervenor group, filed a request for \$24,750.00 to hire the legal firm of Wisniewski Law PLLC, as attorney, and reserved their right to request reallocation of any award to underwrite the cost of technical experts, in the event APFL retains such experts at a later date.<sup>4</sup> On January 15, 2025, Cayuga County joined the subscriber list for this matter and later indicated that the County intended to file for local agency account funds. To date, no other potential municipalities or community intervenors have filed funding requests.

On January 13, 2025, a conference with all funding applicants, as well representatives from the Office of Renewable Energy Siting and Electric Transmission (ORES) and applicant, was scheduled for January 17, 2025. At the conference, the funding applications were adjourned until January 28, 2025, to allow the County time to file its funding application, and for Scipio, Venice, and the County to attempt to resolve their competing applications by stipulation. On January 22, 2025, CCPUSA notified this office and the parties that it was withdrawing its LAAF application.

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<sup>1</sup> See DMM Item No. 85, Town of Scipio LAAF Application.

<sup>2</sup> See DMM Item No. 86, Town of Venice LAAF Application.

<sup>3</sup> See DMM Item No. 88, CCPUSA LAAF Application.

<sup>4</sup> See DMM Item No. 87, APFL LAAF Application.

On January 28, 2025, the Towns and County indicated a stipulation was likely, however, additional time was needed. No parties objected to the extension request, and on January 29, 2025, the funding applications were adjourned to February 11, 2025. On February 11, 2025, this office was notified that a consent resolution was reached. On February 24, 2025, a stipulation was filed on the Department of Public Service's Document and Matter Management system (DMM) reflecting the terms of the stipulation, which are embodied in this ruling. Included in that stipulation is the withdrawal of the County's funding application.

With respect to all the applications, the funds generally are proposed to be used to defray the costs of attorneys to provide the Towns, County, and APFL with comprehensive legal representation and advisement throughout all phases of the project. It is anticipated that legal counsel will provide advisement related to current Public Service Law article VIII (Article VIII) process and procedures, matters related to any permitting, preparation of party status requests and filing, additional filings as necessary, attendance at any meetings and hearings related to the project, and all other advisement related to the project as necessary. Additionally, each entity proposes to receive technical assistance in review of the project application and all related addendums and will make recommendations and provide guidance on all engineering and other technical aspects of the project and its impacts. The services provided will likely include recommendations and guidance regarding environmental impacts of the project and its footprint, as well logistical issues such as impacts to highways and roadways, and other resources. It is further expected that the engineering experts will be necessary to attend any public hearings and provide expert testimony thereat, as well as to consult with legal counsel on any necessary filings.

#### Discussion

The purpose of the local agency account is to enable local agencies and potential community intervenors to participate in public comment periods or hearing procedures established by Article VIII and 16 NYCRR part 1100 by allowing the parties to defray expenses for expert witnesses, studies, consultants, attorneys, and other related expenses. In making an award of funds, the Administrative Law Judges must find that the recipient's use of the funds will contribute to a complete record leading to an informed decision as to the appropriateness of the site and the facility, and for local agencies, shall include the use of the funds to determine whether a proposed facility is designed to be sited, constructed, and operated in compliance with applicable

local laws and regulations.

Only "local agencies" and "potential community intervenors" are eligible to receive local agency account funding. A "local agency" is a local agency, board, district, commission, or governing body, including municipalities, and other political subdivisions of the State, that has jurisdiction over the proposed facility, or from which a permit or other approval would have been required in the absence of Article VIII (see 16 NYCRR 1100-1.2[ac]; 1100-5.1[h][1]).

A "potential community intervenor" is any person residing within a municipality within which a major renewable electric generating facility is proposed or residing outside the municipality within which the facility is proposed, but within one (1) mile of a proposed solar facility or five (5) miles of a proposed wind facility, or any non-profit organization that can demonstrate a concrete and localized interest that may be affected by a proposed facility and that such interest has a significant nexus to the organization's mission. For the purposes of this definition, the term "residing" includes any resident or owner of property within the geographical limitations described above. (See 16 NYCRR 1100-1.2[bh].)

Based on the requests of the Town of Scipio and Town of Venice, we conclude that they are eligible local agencies. Based on their funding applications, we also conclude that their use of the funds will contribute to a complete record leading to an informed decision as to the appropriateness of the site and the facility, and that they will use the funds to determine whether a proposed facility is designed to be sited, constructed, and operated in compliance with applicable local laws and regulations.

Based on the application of APFL, we conclude that it is an eligible organization. We further conclude that their use of the funds will contribute to a complete record leading to an informed decision as to the appropriateness of the site and the facility.

At least seventy-five (75) percent of the local agency account funds are required to be reserved for use by eligible local agencies (see 16 NYCRR 1100-5.1[g][2]). Seventy-five (75) percent of the \$99,000.00 deposited by applicant is \$74,250.00. Taking all factors into consideration, primarily the stipulation of the parties and a full review of the respective requests, local agency account funds are awarded to the Town of Scipio in the amount of \$37,125.00. Scipio's funding application sought apportionment of the award as follows, 28.5% for engineering fees and 71.5% legal

fees; thus, Scipio's award is allocated as \$10,580.63 for engineering fees and \$26,544.37 for legal fees.

The Town of Venice is awarded local agency account funds in the amount of \$37,125.00. APLF is awarded local agency account funds in the amount of \$24,750.00. Neither Venice's nor APLF's funding applications sought apportionment of legal and engineering fees. Venice provided neither a statement of the hourly wage rate nor an estimate of services for either their proposed law firm or their engineers as required by 16 NYCRR 1100-5.1(h)(8). Accordingly, Venice's reimbursement of funds expended on expert services is conditioned upon their submission to this office, for its prior approval, of such a statement and estimate. APFL's request to apportion the funds between legal and engineering expenses themselves is denied. APFL must submit a proper statement of the services to be provided by experts, including hourly fee, wage rate, and expenses, specifying how such services and expenses will contribute to the compilation of a complete record as to the appropriateness of the site and facility, pursuant to 1100-5.1(h)(6) and (8), and seek reapportionment of the legal fees award to engineering fees.

Requests for the disbursement of funds from the local agency account are to be made to the Office of Renewable Energy Siting and Electric Transmission (ORES or Office) pursuant to 16 NYCRR 1100-5.1. Instructions for the proper filing of vouchers are issued herewith and are incorporated herein by reference. Counsel are directed to use the proper recently revised forms for the Substitute W-9 and vouchers found on our website.

Funds will not be disbursed to defray costs that do not fall within the applicable statutory and regulatory criteria for the allowable uses of local agency account funds. For administrative activities not directly related to the development of a complete record leading to an informed permit decision as to the appropriateness of a project site and facility and, for local agencies, for activities not directly related to informing the decision whether a proposed facility is designed to be sited, constructed, and operated in compliance with applicable local laws and regulations (see 16 NYCRR 1100-5.1[b]), the Office is authorizing only partial reimbursement. Accordingly, ORES will authorize reimbursement of up to five hours for the preparation of a request for local agency account funding, and up to one hour for the preparation of each local agency account funding voucher report and associated invoices.

Local agency account funds are not available for

activities unrelated to issues within the scope of the Office's review. For example, funds will not be disbursed to defray costs related to negotiating bilateral agreements unless those negotiations are primarily designed to lead to agreements on issues within the scope of the Office's review in this proceeding or agreements on host community benefits to be provided by the applicant.

Finally, the Office will reimburse municipalities and local agencies for activities related to preparing for and participating in pre-application consultations with applicant required by 16 NYCRR 1100-1.3(a).

(SIGNED)

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