

APPENDIX A

Baron Wind Project

DPS Staff Revised Proposed Certificate Conditions

I. Project Authorization

1. The Certificate Holder is authorized to construct and operate the Facility (Facility or the Project), as described in the Application by Baron Winds LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 of the New York State Public Service Law (PSL) (the Application) and clarified by the Certificate Holder's supplemental filings, updates and replies to discovery data requests, additional exhibits, except as waived, modified or supplemented by the New York State Board on Electric Generation Siting and the Environment's (Siting Board's) Order Granting Certificate or other permits.
2. Pursuant to Title 16 of the New York Codes, Rules and Regulations (NYCRR) §1000.15, the Certificate Holder shall, within 30 days after the issuance of the Certificate, file with the Siting Board either a petition for rehearing or a verified statement that it accepts and will comply with the Certificate for the Project. Failure of the Certificate Holder to comply with this condition shall invalidate the Certificate.
3. The Certificate Holder is responsible for obtaining all necessary permits and any other approvals (including those pursuant to PSL §§68, 69 and 70) that may be required for the Project and which the Siting Board is not empowered to provide, or has expressly authorized. In addition, the Siting Board expressly authorizes the Public Service Commission (Commission) to require approvals, consents, permits, certificates or other conditions for the construction or operation of the Facility under PSL §§68, 69 & 70, with the understanding that the Commission will not duplicate any issue already addressed by the Siting Board and will instead only act on its police power functions related to the entity as described in the body of this Article 10 certificate.
4. If the Certificate Holder believes that any action taken, or determination made, by a State or local agency or their respective staffs, in furtherance of such agency's review of any applicable regulatory permits or approvals, or actions or the lack thereof by a utility subject to the Public Service

Commission's jurisdiction, is unreasonable or unreasonably delayed, conditioned or withheld, the Certificate Holder may petition the Siting Board or the Commission, as the case may be, upon reasonable notice to that agency or utility, to seek a determination of any such unreasonable or unreasonably delayed, conditioned or withheld, action or determination. The permitting agency, agency staff or utility, as the case may be, may respond to the petition, within ten days, to address the reasonableness of its action or determination.

5. Facility construction is authorized for up to 69 wind turbines in the Towns of Cohocton, Dansville, Fremont, and Wayland, temporary or permanent access roads, 34.5 kilovolt (kV) overhead and underground collection system, collection and interconnection substation, three permanent meteorological towers, one operations and maintenance (O&M) building (if necessary), temporary concrete batch plant (if necessary) and two temporary staging/laydown areas. The total generating capacity of the Facility shall not exceed 242 megawatts (MWs).
6. If the Certificate Holder decides not to commence construction of any portion of the Project (not including turbine deletions as a result of final facility design as long as turbine deletions do not result in substantial re-routing of proposed Facility components including access roads, interconnection and collection lines), it shall so notify the Secretary to the Siting Board (Secretary) in writing within 30 days of making such decision and shall serve a copy of such notice upon all parties in the same manner and at the same time as it files with the Secretary.
7. If the Project results in activities regulated under Section 401 of the Clean Water Act, prior to the construction of the Facility the Certificate Holder shall file a request/application for a Water Quality Certification with the Secretary, which shall be filed and served and noticed pursuant to 16 NYCRR §1000.8(a)(8). This request shall be filed concurrently with the permit application filed with the United States Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act.
8. The Certificate Holder has not asserted that it has the power of eminent domain to acquire real property or demonstrated that the feasibility of the Project relies in any way upon the Certificate Holder or any other entity having the power of eminent domain or exercising the power of eminent domain to acquire permanent or temporary real property rights for the

Facility or for any of the access roads, construction staging areas or interconnections necessary to service the Facility. By granting this Certificate to the Certificate Holder, an entity in the nature of a merchant generator and not in the nature of a fully regulated public utility company with an obligation to serve customers, the Siting Board is not making a finding of public need for any particular parcel of land such that a condemnor would be entitled to an exemption from the provisions of Article 2 of the New York State Eminent Domain Procedure Law ("EDPL") pursuant to Section 206 of the EDPL. As a condition of this Certificate, the Certificate Holder shall not commence any proceedings or cause any other entity having the power of eminent domain to commence any proceedings under the EDPL to acquire permanent or temporary real property rights for the Facility or for any of the access roads, construction staging areas or interconnections necessary to service the Facility without an express amendment to this Certificate, granted by the Siting Board, authorizing such proceedings.

9. This Certificate will automatically expire in five years from the date of issuance of this Certificate (the "Expiration Date") unless the Certificate Holder has completed construction and commenced commercial operation of the Facility prior to said Expiration Date.
10. The Secretary to the Siting Board, or Secretary to the Commission after the Siting Board's jurisdiction has ceased, may extend any deadlines established by this order for good cause shown. Any request for an extension must be in writing, include a justification for the extension, and be filed at least one day prior to the affected deadline.

II. General Conditions

11. Prior to construction, the Certificate Holder ~~will~~ shall ~~submit to file with~~ the Secretary to the Siting Board (Secretary) any and all permits that require filing prior to the commencement of construction. Upon receipt of any and all additional permits for the Project, the Certificate Holder shall file notice of receipt of the permit(s) with the Secretary ~~to the Siting Board (Secretary)~~ as soon as practical. Should any permits be denied, the Certificate Holder shall file with the Secretary documentation demonstrating the reasons for the denial and how it plans to proceed with its Project plans in light of the denial.

12. The Certificate Holder shall implement the impacts avoidance, minimization and mitigation measures, as described in the Application and clarified by the Certificate Holder's supplemental filings, updates and replies to discovery data requests and additional exhibits, and this Order Granting Certificate.
13. The Certificate Holder shall construct and operate the Facility in accordance with the substantive provisions of the applicable local laws as identified in Exhibit 31 of the Application and as further amended, revised, and adopted, except for those local laws the Siting Board waives as unreasonably burdensome, as stated in this Order Granting Certificate.
14. The Certificate Holder shall incorporate and implement as appropriate, in all compliance filings and construction activities, American National Standards Institute (ANSI) standards and measures for engineering design, construction, inspection, maintenance and operation of its authorized Facility, including features for Facility security and public safety, utility system protection, plans for quality assurance and control measures for facility design and construction, utility notification and coordination plans for work in close proximity to other utility transmission and distribution facilities, vegetation and facility maintenance standards and practices, emergency response plans for construction and operational phases, and complaint resolution measures.
15. The Certificate Holder shall work with New York State Electric and Gas Corporation (NYSEG), and any successor Transmission Owner (as defined in the New York Independent System Operator (NYISO) Agreement), to ensure that, with the addition of the Facility (as defined in the Interconnection Agreement between the Certificate Holder, NYISO and NYSEG), the system will have power system relay protection and appropriate communication capabilities to ensure that operation of the NYSEG transmission system is adequate under Northeast Power Coordinating Council (NPCC) standards, and meets the protection requirements at all times of the North American Electric Reliability Corporation (NERC), NPCC, New York State Reliability Council (NYSRC), NYISO, and NYSEG, and any successor Transmission Owner (as defined in the NYISO Agreement). Certificate Holder shall demonstrate compliance with applicable NPCC criteria and shall be responsible for the costs to verify that the relay protection system is in

compliance with applicable NPCC, NYISO, NYSRC and NYSEG criteria.

16. The authority granted in the Certificate and any subsequent Order(s) in this proceeding is subject to the following conditions necessary to ensure adherence with such Order(s):
 - a) The Certificate Holder shall regard the Department of Public Service Staff (Staff or DPS Staff), authorized pursuant to PSL §66(8), as the Siting Board's representatives in the field and, after the Siting Board's jurisdiction has ceased, as the Public Service Commission's (Commission) representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the Certificate, Compliance Filings, or any other order in this proceeding, such DPS Staff may issue a stop work order for that location or activity.
 - b) A stop work order shall expire 24 hours after issuance unless confirmed by the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, including by Order issued by the Chair of the Siting Board or by one Commissioner of the Commission. DPS Staff shall give the Certificate Holder notice by electronic mail of any application to the Siting Board or Commissioner to have a stop work order confirmed. If a stop work order is confirmed, Certificate Holder may seek reconsideration from the confirming Commissioner, Siting Board or the whole Commission. If the emergency prompting the issuance of a stop work order is resolved to the satisfaction of DPS Staff, the stop work order will be lifted. If the emergency has not been satisfactorily resolved, the stop work order will remain in effect.
 - c) Stop work authority shall be exercised sparingly and with due regard to potential environmental impact, economic costs involved, possible impact on construction activities, and whether an applicable statute or regulation is violated. Before exercising such authority, DPS Staff will consult wherever practicable with the Certificate Holder's representative(s) possessing comparable authority. Within reasonable time constraints, all attempts will be made to address any issue and resolve any dispute

in the field. In the event the dispute cannot be resolved, the matter will be brought immediately to the attention of the Certificate Holder's Project Managers and the Director of the DPS Office of Electric, Gas and Water. If DPS Staff issues a stop work order, neither the Certificate Holder nor the Contractor will be prevented from undertaking any safety-related activities as they deem necessary and appropriate under the circumstances. Issuance of a stop work order or the implementation of measures as described below may be directed at the sole discretion of DPS Staff during these discussions.

- d) If DPS Staff discovers a specific activity that represents a significant environmental threat that is, or immediately may become, a violation of the Certificate, Compliance Filings, or any other Order in this proceeding, DPS Staff may -- in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with DPS Staff, refuse to take appropriate action -- direct the field crews to stop the specific potentially harmful activity immediately. If responsible Certificate Holder personnel are not on site, DPS Staff will immediately thereafter inform the Certificate Holder's construction supervisor(s) and/or environmental monitor(s) of the action taken. The stop work order may be lifted by DPS Staff if the situation prompting its issuance is resolved.

- e) If DPS Staff determines that a significant threat exists such that protection of the public or the environment at a particular location requires the immediate implementation of specific measures, DPS Staff may, in the absence of responsible Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with DPS Staff, refuse to take appropriate action, direct the Certificate Holder or the relevant Contractors to implement the corrective measures identified in the approved Certificate or Compliance Filings. However, all directives must follow the protocol established for communication between parties as required by the final approved *Project Communications Plan*. The field crews shall immediately comply with DPS Staff's directive as provided through the communication protocol. DPS Staff will immediately thereafter

inform Certificate Holder's Construction Inspector(s) and/or environmental monitor(s) of the action taken.

17. The Certificate Holder shall notify its contractors that the Siting Board may seek to recover penalties for any violation of the Certificate and other orders issued in this proceeding, not only from such Certificate Holder, but also from its contractors and that contractors also may be liable for other fines, penalties, and environmental damage.
18. The Certificate Holder shall construct and operate the Facility in a manner that conforms to all substantive State requirements, including but not limited to those identified in Exhibit 32 of the Application.
19. Activities required to enable engineering and environmental surveys and access for testing necessary for preparation of final facilities design, Compliance Filings, and site plan preparation, including minor trimming, cutting, and removal of vegetation and trees for such purposes, are not considered construction.

III. Notifications

20. Certificate Holder and its contractors shall not commence site preparation, cutting and clearing of trees, or other construction activities until a "Notice to Proceed with Construction" has been issued by the Secretary or by the Chief of the Environmental Certification and Compliance Section of the DPS Office of Electric, Gas & Water. At least 14 days prior to the Certificate Holder's commencement of site preparation, clearing and construction date, the Certificate Holder shall notify the public as follows:
 - a) Provide notice by mail to host landowners, adjacent landowners within 5,000 feet of the final layout to be constructed, and persons who reside on such property (if different from the landowner);
 - b) Provide notice to local Town and County officials and emergency personnel;
 - c) Publish notice in the local newspapers of record for dissemination, including at least one free publication if available (e.g., Pennysaver);

- d) Provide notice for display in public places, which will include, but not be limited to, the Town Halls of the host municipalities, at least one library in each host municipality, at least one post office in each host municipality, the Facility website, and the Facility construction trailers/offices; and
 - e) File notice with the Secretary for posting on the DPS Document Matter Management website.
21. The Certificate Holder shall write the notice(s) required in Condition 20 in language reasonably understandable to the average person and shall ensure that the notice(s) contain:
- a) A map of the Project;
 - b) A brief description of the Project;
 - c) The construction schedule and transportation routes;
 - d) The name, mailing address, local or toll-free telephone number, and email address of the Project Development Manager and Construction Manager;
 - e) The procedure and contact information for registering a complaint; and
 - f) Contact information for the Siting Board and Commission.
22. Upon distribution of Notice, and prior to commencement of site preparation, clearing and construction, the Certificate Holder shall notify the Town Boards of all areas where information regarding the Project, Project activities, and Project contact information have been posted.
23. At least seven (7) business days prior to commencement of site preparation, clearing and construction, the Certificate Holder shall file with the Secretary an affirmation that it has provided the notifications required by this Section III and include a copy of the notice(s) under this Section as well as a distribution list.
24. Prior to the end of construction, the Certificate Holder shall notify the entities identified in Condition 20(a), 20(b), and 20(e) with the contact name, telephone number, email and mailing address of the Facility Operations Manager.

25. The Certificate Holder shall file a written notice with the Secretary within 14 days of the completion of construction and provide an anticipated date of commencement of commercial operation of the Facility.
26. Within 14 days of the completion of final post-construction restoration, the Certificate Holder shall notify the Secretary that all such restoration has been completed in compliance with this Certificate and the Order(s) approving all applicable compliance filings.

IV. Information Reports and Compliance Filings Requirements

Information Reports

The following written information reports and other documents shall be filed with the Secretary to the Siting Board in accordance with 16 NYCRR §1002.4. The following information reports and other documentation shall be filed with the Secretary prior to the commencement of construction date, unless otherwise noted:

General

27. Documentation, including proofs of consent, redacted as needed to protect confidential information, demonstrating that all necessary agreements are in place for use of the Facility Site for construction and operation (e.g., landowner agreements, easements, setback waivers, or Good Neighbor Agreements) and redacted as needed to protect confidential information.
28. Interconnection:
 - a) The Interconnection Agreement between the NYISO, NYSEG, and the Certificate Holder. Any updates or revisions to the Interconnection Agreement shall be submitted throughout the life of the Project.
 - b) Except in the event of an emergency, if any equipment or control system with different characteristics is installed throughout the life of the Project, the Certificate Holder shall, at least 90 days before any such change is made, provide information regarding the need for, and the nature of, the change to NYSEG and file such information with the Secretary. If any such

change(s) is made in the event of an emergency, the Certificate Holder shall notify the Secretary as soon as practicable, within one week of the date of installation.

29. Facilities Studies:

a) All Facilities Studies issued by NYSEG and the NYISO shall be provided within 14 days of receipt of the final study report(s).

b) Any updated facilities agreements will also be filed throughout the life of the Facility.

30. Any System Reliability Impact Study (SRIS) performed in accordance with the NYISO Open Access Transmission Tariff (OATT) approved by the Federal Energy Regulatory Commission, and all appendices thereto, reflecting the interconnection of the Facility.

31. The following shall be submitted regarding wind turbine model certification(s) for all proposed model(s), if not already provided to the Siting Board:

a) Third-party type certification in accordance with International Electrotechnical Commission (IEC) 61400, proving that wind turbine model(s) meet international design standards; and

b) Third-party Project certification showing that turbine model(s) are compatible with existing Project conditions (i.e., site specific conditions).

32. The Certificate Holder shall file with the Secretary within 60 days of the commercial operation date a certification that the collector lines were constructed to the latest editions of ANSI standards. The Facility's electrical collection system shall be designed in accordance with applicable standards, codes, and guidelines as specified in Exhibit 5 of the Application.

33. In the event that the final Facility design require a Special Protection System, the Certificate Holder shall file a report with the Secretary regarding implementation of such system, which is designed to avoid possible overloads from certain transmission outages, as well as copies of all studies that support the design of such a system. In addition, Certificate

Holder shall provide all documentation for the design of special protection system relays, with a complete description of all components and logic diagrams. Prior to commencement of operations, Certificate Holder shall demonstrate through appropriate plans and procedural requirements that the relevant components of the Special Protection System will provide effective protection.

34. Prior to Certificate Holder providing final design plans and profile drawings of the interconnection facilities, the Certificate Holder shall work with NYSEG to ensure such documents are in accordance with the Interconnection Agreement and NYSEG's Electric System Bulletins, as well as the New York State High Voltage Proximity Act.
35. A Relay Coordination Study that has been reviewed and accepted by NYSEG shall be filed at least four months prior to the projected date for commencement of commercial operation of the Facility.
36. The Certificate Holder shall file with the Secretary, within one year after the Project becomes operational, a tracking report of the actual number of direct jobs created during the construction and operational phases of the Project, as well as the actual tax payments to local jurisdictions made during the Project.

Permits and Approvals

37. Upon receipt, any and all federal permits and/or approvals required to conduct jurisdictional activities associated with certain aspects of construction and operation of the Facility shall be filed with the Secretary. If relevant Project plans require modifications due to conditions of federal permits, the final design drawings and all applicable compliance filings shall be revised accordingly and submitted for review and approval pursuant to 16 NYCRR §1002.2 and §1002.3 as appropriate to incorporate design requirements for changes in environmental impacts.
38. The following shall be filed regarding Federal Aviation Administration (FAA) permits and required approval documentation:

- a) Prior to construction, Final Determinations or Determinations with conditions resulting from aeronautical studies;
- b) If any Determinations of No Hazard to Air Navigation for the Project's wind turbines are extended, revised, or terminated by the issuing office, documentation or verification detailing the actions shall be filed with the Secretary within 10 days of issuance;
- c) All material related to the FAA approval of lighting systems to be installed on wind turbines (and any associated equipment), including Aircraft Detection Lighting Systems and non-Aircraft Detection Lighting Systems, shall be filed with the Secretary prior to construction.
- d) If relevant Project plans require modifications due to results of FAA studies and Determinations, the Certificate Holder shall provide any updated Compliance Filings, such as modified site plans and other drawings or details, in accordance with the requirements set forth in ~~the Appendix A "Requirements for the Development of Site Engineering and Environmental Plan (SEEP) Specifications required per Condition 52(a) Compliance Filings" and detailed in Condition 52, if relevant Project plans require modifications due to results of FAA studies and Determinations;~~ and
- e) A copy (or verification of filing to the FAA) of the FAA Form 7460-2, Notice of Actual Construction or Alteration shall be filed with the Secretary upon completion of construction of the Project.

39. Upon receipt, any local or state permits and/or approvals required for construction and operation of the Facility if such approvals were authorized by the Siting Board. If relevant Project plans require modifications due to conditions of local or state permits, the final design drawings and all applicable compliance filings shall be revised accordingly and submitted for review and approval pursuant to 16 NYCRR §1002.2 and §1002.3 as appropriate to incorporate design requirements for changes in environmental impacts.

- a) The Board hereby authorizes the New York State Department of Transportation (NYS DOT) to administer

permits associated with Oversize/Overweight Vehicles and deliveries; Highway Work Permits; and associated Use and Occupancy approvals as needed to construct and operate the proposed facilities.

Plans, Profiles, and Detail Drawings

40. Prior to commencement of commercial operation of the Facility, the Certificate Holder shall file an attestation affirming that the final Facility design incorporates the following measures for visual impact minimization:
 - a) Advertisements, conspicuous lettering, or logos identifying the Facility owner, turbine manufacturer, or any other entity on the turbines shall not be allowed;
 - b) White or off-white color of wind turbines, towers and blades (as required by the FAA to avoid the need for daytime aviation hazard lighting) shall be utilized; and non-reflective finishes used on wind turbines to minimize reflected glare;
 - c) Medium-intensity red strobe lights on turbines for aviation hazard marking, and the extent of lighting will be minimized to the extent allowable by the FAA; and
 - d) Lighting controls at substations, turbines and turbine sites shall be maintained.

41. *As-Built Plans* in both hard and electronic copies shall be filed within six months of the commencement of commercial operation of the Facility and shall include the following:
 - a) GIS shapefiles showing all components of the Project (wind turbine locations, electrical collection system, substation, buildings, access roads, met towers, point of interconnection (POI), etc.);
 - b) Collection circuit layout map; and
 - c) *As-Built Plans* and details for all Project component crossings of, and co-located installations of Project components with, existing pipelines: showing cover, separation distances, any protection measures

installed, and locations of such crossings and co-located installations.

Environmental

42. Water Supply Protection:

- a) The Certificate Holder shall file with the Secretary a notice confirming that no wind turbine will be located within 100 feet of an existing, active water supply well or water supply intake.
- b) Blasting shall be prohibited within 500 feet of any existing, active water supply well or water supply intake on a non-participating parcel.
- c) If environmental or engineering constraints require siting of any collection lines or access roads within 100 feet of an existing, active water supply well or any turbines within 1,000 feet of an existing, active water supply well on a non-participating parcel, the Certificate Holder shall engage a qualified third party to perform pre- and post-construction testing of the potability of water wells within the above specified distances of construction disturbance before commencement of construction and after completion of construction to ensure the wells are not impacted.
- d) Should the third-party testing conclude that Facility construction has adversely impacted potability of an existing, active water supply well, the Certificate Holder shall cause a new water well to be constructed, in consultation with the property owner, at least 100 feet from collection lines and access roads, and at least 1,000 feet from wind turbines.

43. A final Bird and Bat Conservation Strategy (BBCS) will be developed in consultation with the New York State Department of Environmental Conservation (DEC), DPS Staff and the United States Fish and Wildlife Service (USFWS), said consultations being open to any party desiring to participate or observe. A copy of the Final BBCS, will be provided to DEC and DPS Staff.

Compliance Filings

The following plans, drawings, and other documents shall be filed for approval by the Siting Board in accordance with

the rules for submittal, public comment, and decisions set forth in 16 NYCRR §1002.2 and §1002.3. The Certificate Holder shall implement all requirements of the compliance filings, as approved or amended by the Siting Board. Required compliance filings shall be filed with the Secretary prior to the commencement of construction date, unless otherwise noted.

General

44. Prior to commencement of construction, the Certificate Holder shall submit a *Project Communications Plan* identifying the Certificate Holder's construction organizational structure, contact list, and protocol for communication between parties. The plan shall include the names and contact information of all individuals responsible for Project oversight, including but not limited to:
 - a) Full-time environmental monitor;
 - b) Full-time construction supervisor;
 - c) Part-time or full-time agricultural inspector; and
 - d) Part-time health and safety inspector.

45. Prior to commencement of construction, a *Final Decommissioning Plan* shall be submitted. Letters of credit will be established by the Certificate Holder to be held by each town hosting Facility components. The total amount of the letters of credit created for the Towns of Cohocton, Dansville, Fremont, and Wayland will represent the total final decommissioning and site restoration estimate, as described below. The letters of credit shall remain active until the Facility is fully decommissioned. The *Final Decommissioning Plan* will include the following:
 - a) A final decommissioning and site restoration estimate (no offset for projected salvage value is permitted in the calculation of the estimate). The estimate shall be updated by a qualified independent engineer licensed to practice engineering in the State of New York to reflect inflation and any other changes after one year of Facility operation, and every fifth year thereafter. Updated estimates will be filed with the

Secretary after one year of Project operation and every fifth year thereafter;

- b) Documentation indicating approval by the Towns of Cohocton, Dansville, Fremont, and Wayland of an acceptable form of letter of credit;
- c) Proof that the letters of credit have been obtained in the final decommissioning and site restoration estimate amount, as calculated pursuant to the Final Decommissioning Plan;
- d) Letters of credit shall be updated after one year of Facility operation and every fifth year thereafter, based on updated estimates described in sub-section a of this condition. Documentation shall be filed with the Secretary after one year of Project operation and every fifth year thereafter specifying changes to the structure of the letters of credit; and
- e) Copies of agreements between the Certificate Holder and the Towns, establishing a right for each Town to draw on the letters of credit dedicated to its portion of the Facility.

46. The Certificate Holder shall submit a final *Complaint Resolution Plan* for both construction and operation phases of the Project ~~(a separate plan will be submitted for operational noise)~~, which shall be developed in consultation with the Towns. The plan will also contain a separate procedure to address operational noise complaints. A copy of the *Final Complaint Resolution Plan* shall be submitted to the Towns and filed at the Facility document repositories. The plan shall address complaint reporting and resolution procedures for all construction and operation issues. The plan shall include protocols for:

- a) Registering a complaint;
- b) Notifying the public of the complaint procedures;
- c) Responding to and resolving complaints in a consistent and respectful manner;
- d) Logging and tracking of all complaints received and resolutions achieved;

- e) Reporting to DPS Staff any complaints not resolved within 30 days of receipt;
- f) Arbitrating complaints not resolved within 60 days; and
- g) Providing quarterly reports of complaint resolution tracking to DPS Staff that shall also be filed with the Secretary.

If the Complaint Resolution process determines that Facility operation has resulted in impacts to existing off-air television coverage, the Certificate Holder shall address each individual problem by investigating methods of improving the television reception system. Should this prove ineffective, cable television or equivalent service shall be offered (in areas where cable service is available), or in areas where cable service is not available or not practical, direct broadcast satellite reception systems.

- 47. Any manufacturer provided information (including technical and safety manuals) regarding the design, safety and testing information for the wind turbine(s), specific generating and related facilities equipment to be installed during construction, or as related to any equipment installed during Facility operation as a replacement of failed or outdated equipment. All such updates will be submitted to the Siting Board, or to the Commission after the Siting Board's jurisdiction has ceased, by filing with the Secretary throughout the life of the plant. Replacement of major Facility components, such as wind turbines, with different make, model, size, or other material modification, shall be subject to review and approval under appropriate authority of the Siting Board.
- 48. Prior to commercial operation date, the Certificate Holder shall file with the Secretary, *Operation and Maintenance Plan(s)* for the Facility. The plan shall demonstrate conformance with manufacturer's required maintenance schedules.

Health and Safety

- 49. The Certificate Holder shall submit complete documentation of its emergency procedures and list of emergency contacts. The Certificate Holder shall file annually with the Secretary an updated copy of its emergency procedures and list of emergency

contacts and with documentation of any modifications. The Certificate Holder may submit separate emergency procedures for construction and operation. Emergency procedures for construction must be submitted prior to the commencement of construction and emergency procedures for operation must be submitted prior the commencement of commercial operation.

50. Prior to the commencement of construction of the O&M building, collection substation, and POI switchyard, a detailed *Facility Exterior Lighting Plan* shall be submitted for review and approval by the Siting Board; the Plan shall address:

- a) security lighting needs at wind turbine sites, substation and switchyard sites, the Facility Operations and Maintenance building site and any exterior equipment storage yards;
- b) plan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement at the collection substation site, the Facility Operations and Maintenance building site, any exterior equipment storage yards; and plan, elevation, and details for lighting;
- c) lighting should be designed to provide safe working conditions at appropriate locations;
- d) exterior lighting design shall be specified to avoid off-site lighting effects, by:
 - (i) use of task lighting as appropriate to perform specific tasks; task lighting shall be designed to be capable of manual or auto-shut off switch activation rather than motion detection;
 - (ii) for lighting other than turbine door safety lighting, full cutoff fixtures, with no drop-down optical elements (that can spread illumination and create glare), shall be required for permanent exterior lighting; and
 - (iii) manufacturer's cut sheets of all proposed lighting fixtures.
- e) lighting of all required wind turbine components shall be implemented as per the current requirements of the Federal Aviation Administration (FAA) Advisory

Circular 70/7460-IL, Chapters 13 and 14 or as updated, as of the time of Compliance Filing submittal. Documentation shall be provided regarding FAA approval of site-specific lighting (as specified in Condition 38).

Transportation

51. The Certificate Holder shall coordinate with the State, County, and local municipalities to respond to any locations that may experience any traffic flow or capacity issues. The Applicant shall file the following regarding potential transportation impacts in accordance with applicable requirements ~~in of Section B 8(h) of Attachment A Requirements for the Development of Site Engineering and Environmental Plan (SEEP) Compliance Filings (SEEP Specifications)~~ the SEEP Specifications required per Condition 52(a):

- a) Copies of all necessary transportation permits from the affected State, County, and Town agencies. Such permits shall include but not be limited to: Highway Work Permits to work within the Right-of-Way (ROW), permits to exceed posted weight limits, Highway Utility Permits to work within ROW, Traffic Signal Permits to work within ROW, Special Haul Permits for oversize/overweight vehicles, and Divisible Load overweight Permits;
- b) Final or updated *Route Evaluation Study*, including maps of final transportation routes for Project component deliveries;
- c) *Traffic Control Plans* for any city, town, or village that may experience delays to local traffic during construction activities. The *Traffic Control Plans* shall include copies of any *Host Community Agreements* and/or *Road Use Agreements* with the County and any affected towns where the local roads will be utilized for delivery or construction vehicle transportation;
- d) Copies of all necessary agreements with utility companies for raising overhead wires where necessary to accommodate the oversize/overweight delivery vehicles, if applicable.

Plans, Profiles, and Detail Drawings

52. SEEP

- a) The Certificate Holder shall develop SEEP Specifications which establish the informational requirements of the final environmental and engineering plans and drawings, in consultation with DPS Staff and DEC. The SEEP Specifications shall be submitted for approval as a compliance filing following acceptance by DPS Staff.

- b) The following additional plans not otherwise required by these Conditions shall be included in the SEEP. Informational requirements of each plan shall be specified in the SEEP Specifications:
 - (i) Final Site Security Plan for Facility construction and operations.

 - (ii) Final Storm Water Pollution Prevention Plan (SWPPP).

 - (iii) Final Inadvertent Return Plan for horizontal direction drilling (HDD) operations.

 - (iv) Final Invasive Species Control Plan (ISCP) for the Project.

- c) Maps, site plans, profile figures, and environmental controls and construction details incorporating all components of the final layout of the Project shall be provided in the SEEP, ~~in accordance with the requirements set forth in Attachment A – SEEP Specifications~~ following approval of the SEEP Specifications.

- e) ~~_____~~

~~52.53.~~ Final design drawings, site plans, and construction details (to be included as part of the SEEP in accordance with the applicable requirements of the SEEP Specifications required per Condition 52(a) set forth in Attachment A – SEEP Specifications) will show wind turbine setback dimensions that meet or exceed the turbine setback requirements in each Town's local law.

~~53.54.~~ The Certificate Holder shall provide all ~~of the~~ information required by the ~~pursuant to Section A.1.g. of~~

~~Attachment A~~—SEEP Specifications, as applicable to Project component crossings of, or co-locations with, existing Sunoco and other pipelines within the Project Area.

~~54-55.~~ Shapefile data shall be provided to DPS Staff for the locations of turbines, collection lines, transmission lines, substation, designated clearing, construction and laydown areas, access ways, limits of disturbance and other Project facilities.

Environmental

~~55-56.~~ Final Detailed Geotechnical Engineering Report verifying subsurface conditions at each turbine location. The report shall identify appropriate mitigation measures required in locations with highly corrosive soils, soils with a high frost risk, and soils with high shrink/swell potential. The report shall characterize subsurface conditions where ~~horizontal directional drilling (HDD)~~ is proposed and identify all locations where blasting operations will be required.

~~56-57.~~ *Shadow Flicker Impacts Analysis, Control, Minimization and Mitigation Plan.* Shadow flicker caused by wind turbine operations shall be limited to a maximum of 20 hours annually for non-participating receptors in the Town of Fremont and a maximum of 30 hours annually at any non-participating residential receptor in other municipalities, subject to verification using shadow detection and operational controls at appropriate wind turbines. The *Shadow Flicker Impacts Minimization and Mitigation Plan* shall include:

- a) updated analysis of realistic and receptor-specific predicted flicker based on final proposed design;
- b) a protocol for monitoring operational conditions and potential flicker exposure at the wind turbine locations identified in the updated analysis, based on meteorological conditions;
- c) details of the shadow detection and prevention technology or operational measures that will be adopted for real-time meteorological monitoring or operational control of turbines;
- d) temporary turbine shutdowns during periods that produce flicker; and

- e) shielding or blocking measures (such as landscape plantings and window treatments) for receptor locations that submit complaints for exposures that are not subject to the 20-hour or 30-hour annual limits.

Details of flicker control, minimization and mitigation measures shall be indicated on final design drawings and standards, and site plans as appropriate.

57-58. Upon completion of construction of the Facility, the Certificate Holder shall conduct an assessment of the need for landscape improvements, including vegetation planting, earthwork or installed features to screen or landscape the Project. Based on the results of the assessment, the Certificate Holder shall develop the following in consultation with DPS Staff and submit for approval:

- a) Plans for any visual mitigation found necessary, and, in connection therewith, plans for removal, rearrangement and supplementation of existing landscape improvements or plantings, as appropriate; and
- b) Landscaping plan specifications and materials list (details shall include measures for third party or wildlife damage to any landscape and vegetation plantings); and

The Certificate Holder shall file a *Final Landscaping Plan* with the Secretary within one year of the commercial operation date of the Facility.

58-59. Cultural Resources Protection Measures, including:

- a) Plans to avoid or minimize impacts to archeological and historic resources to the extent practicable. Construction, including site preparation, clearing or other disturbance, shall not be allowed in any areas that have not been reviewed and approved for the presence of cultural resources. The Certificate Holder shall indicate on final ~~Site Engineering and Environmental Plans~~ SEEP measures for avoidance of archaeological sites identified within the Facility site. The mapped locations of all identified archaeological sites within 100 feet (31 meters) of proposed Facility-related impacts shall be identified

as "Environmentally Sensitive Areas" or similar on the final Facility construction drawings, and marked in the field by construction fencing with signs that restrict access.

- b) Final Unanticipated Discovery Plan, establishing procedures in the event that resources of cultural, historical, or archaeological importance are encountered during Facility construction. The plan will include a provision for immediate work stoppage upon the discovery of possible archaeological or human remains. Evaluation of such discoveries, if warranted, shall be conducted by a professional archaeologist, qualified according to New York Archaeological Council Standards. Work shall not resume in the area of such remains until written permission is received from the NYSOPRHP.
- c) If complete avoidance of archaeological sites is not possible, the Certificate Holder shall consult with the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) and DPS Staff to determine if Phase II investigations or mitigation is warranted. The results of any Phase II investigations and/or identification of mitigation measures will be included in the plans.
- d) Final *Cultural Resources Mitigation and Offset Plan*, either as adopted by federal permitting agency in subsequent National Historic Preservation Act (NHPA) §106 review, or as proposed in the Application Supplements and as revised in further consultation with SHPO in the event that the NHPA §106 review does not require that the mitigation plan be implemented, or as further supplemented pending any negotiations among parties. Proof of mitigation funding awards for offset project implementation to be provided within two years of the start of construction of the Facility shall be included.

59-60. Curtailment plan for minimization of impacts to bat species, which shall include:

- a) description and implementation of a curtailment regime during the period July 1 through October 1 requiring a minimum curtailment of 6.0 m/s, 30 minutes prior to

sunset through 30 minutes after sunrise, when temperatures are greater than 10 degrees Celsius; and

- b) methods for monitoring and verifying compliance with curtailment requirements.

~~60-61.~~ 61. The Certificate Holder shall submit a review of curtailment operations every five years to DPS and DEC. The review will assess if changes in technology or knowledge of impacts to bats supports modification of the existing curtailment regime. Modifications to the existing curtailment regime that further decrease mortality may be proposed or negotiated. Any such modifications shall not be costlier than the existing curtailment regime, unless voluntarily supported by the Certificate Holder.

~~61-62.~~ 62. A final *Net Conservation Benefit Plan* for the take of Northern Long Eared Bats (NLEB), which shall be filed within six months of the date of issuance of the Certificate. The *Net Conservation Benefit Plan* shall be prepared in consultations with and accepted by DEC and DPS Staff, said consultations being open to any Party desiring to participate or observe, and shall meet the requirements of 6 NYCRR §182.11. The minimization measures in the *Net Conservation Benefit Plan* that require installation shall be installed prior to operation of the Facility. At a minimum, the *Net Conservation Benefit Plan* shall contain:

- a) a demonstration that the Net Conservation Benefit Plan (NCBP) results in a positive benefit on the NLEB and not just an offset for any potential take of the species;
- b) detailed net benefit calculations based on the actual location and type of minimization measures to be taken;
- c) full source information used as inputs to the net benefit calculations;
- d) a consideration of potential mitigation measures identified by DEC Staff;
- e) a consideration of potential sites identified by DEC Staff for mitigation measures;

f) the identification and detailed description of the additional minimization measures developed to minimize potential take of the Northern Long Eared Bat that will be undertaken by the Certificate Holder; and

~~62-63.~~ If DEC Staff determines that the Project will likely result in a take of eagles, then the Certificate Holder, shall file a NCBP for eagles within six months of the date of issuance of the Certificate. The *Net Conservation Benefit Plan* shall be prepared in consultations with and accepted by DEC and DPS Staff, said consultations being open to any Party desiring to participate or observe, and shall meet the requirements of 6 NYCRR §182.11.

~~63-64.~~ A *Post Construction Avian and Bat Monitoring and Adaptive Management Plan* shall be filed at least 60 days prior to the start of commercial operation of the Facility. The plan will include direct impact fatality studies and habituation/avoidance studies. The details of the post-construction studies (i.e., the start date, number and frequency of turbine searches, search area, bat monitoring, further monitoring beyond the second year, etc.), will be described following DEC's June 2016 *Guidelines for Conducting Bird and Bat Studies at Commercial Wind Energy Projects*, for Standard Post-Construction Studies and through consultation between the certificate holder, USFWS, and DEC. Post-construction monitoring will be conducted for a minimum period of at least two (2) years but no more than three years.

~~64-65.~~ A final *Wetlands Mitigation Plan* addressing impacts to federal and State-regulated wetlands shall be developed in coordination with DEC, DPS Staff, and the Corps to satisfy applicable federal and State regulations. The plan shall provide for wetland mitigation in the same watershed to the maximum extent practicable. If mitigation of State-regulated wetlands is required, the plan shall separately address impacts to each of the wetlands benefits described in Environmental Conservation Law § 24-0105(7).

~~65-66.~~ In the event that, after a period of five years following construction of the Facility and the implementation of the Wetland Mitigation Plan, all wetland performance standards have not been achieved, the Certificate Holder shall develop a "Wetland Mitigation Remedial Plan" in coordination with DEC, DPS Staff, and the Corps (if applicable), and submit it to the Secretary for approval. The "Wetland Mitigation Remedial Plan" must describe the likely reasons for not achieving

performance standards, describe the actions necessary to correct the situation to ensure a successful mitigation, and the schedule for conducting the remedial work. Once approved, the "Wetland Mitigation Remedial Plan" will be implemented according to the approved schedule.

66-67. Long-range *Facility and Corridors Management Plan* shall be filed within one year of the commercial operation date. The plan shall address specific standards, protocols, procedures and specifications for:

- a) Vegetation management recommendations, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species;
- b) All proposed chemical and mechanical techniques for managing undesirable vegetation. Herbicide use and limitations, specifications, and control measures will be included, if proposed;
- c) Substation Fence-line Clearances, and Overhead Wire Security Clearance Zone specifications, indicating applicable safety, reliability and operational criteria;
- d) Inspection and target treatment schedules and exceptions;
- e) Standards and practices for inspection of facilities easements for erosion hazard, failure of drainage facilities, hazardous conditions after storm events or other incidents;
- f) Review and response procedures to avoid conflicts with future use encroachment or infrastructure development;
- g) Wetland and stream protection areas, principles and practices; and
- h) Host landowner notification procedures.

V. Noise and Vibration

68. The Certificate Holder shall present to the Siting Board, or the Commission after the Siting Board's jurisdiction has

ceased, by filing with the Secretary at a minimum of 120 days prior to the start of construction:

- a) Final drawings and details of the Wind Generating Facility, as well as final construction drawings incorporating any appropriate changes to the design and details, including:
 - (i) Location of the turbines identified with Geographic Information System (GIS) coordinates and GIS files.
 - (ii) Turbine dimensions to include hub height and diameter of tip blades rotation.
- b) Proposed grading and turbine ground elevations. Site plan and elevation details, of substations as related to the location of all relevant noise sources (transformers, emergency generator, reactors, if any), any identified mitigations, specifications, and appropriate clearances for sound walls, barriers, mufflers, silencers, and enclosures, if any. Sound information from the manufacturers for all relevant noise sources shall also be presented.
- c) Sound Power levels from the turbines by following these provisions:
 - (i) Sound Power levels from the turbines selected for the project shall be documented with information from the manufacturers based on tests that determined sound power levels following the International Electrotechnical Commission (IEC) 61400-11 standard and Technical Specification IEC TS 61400-14 (2005-1st edition), if available. Sound Power Information will be reported associated with wind speed magnitudes, angular speed of the rotor, and rated power to the extent this information is available. The Sound Power Information will include specifications for Noise Reduced Operations and Low-Noise Trailing Edges if these are available or required to meet the noise conditions of this Certificate.
 - (ii) Apparent Sound Power levels from the turbines at any wind speed at hub height shall not exceed

the final overall broadband (dBA) and the 16 Hz, 31.5 Hz, and 63 Hz full octave band levels (linear) presented in the Application or any subsequent supplement, as measured by following the IEC 61400-11 Standard.

- d) 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 for the Towns of Cohocton, Dansville, Fremont and Wayland, and the regulatory limits of Conditions 72(a) and 72(f). Revised sound modeling shall not incorporate the use of any noise reduction operations (NRO's). In addition, the revised sound modeling will show conformance with the following design goals:
- (i) 45 dBA Lden, 40 dBA L(night-outside), annual equivalent continuous average sound level from the Facility outside any existing permanent or seasonal non-participating residence.
 - (ii) 50 dBA L(night-outside), annual equivalent continuous average nighttime sound level from the Facility outside any existing participating residence
 - (iii) 50 dBA L(night-outside), annual equivalent continuous average nighttime sound level from the Facility across any portion of a non-participating property except for portions delineated as wet lands.
 - (iv) 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.
69. Compliance with Certificate Conditions for the Facility shall be evaluated by the Certificate Holders by following a Sound Testing Compliance and Noise Complaint Protocol that shall follow the provisions and procedures for post-construction noise performance evaluations presented by DPS Staff.
70. At least two Sound Compliance Tests conforming to the compliance protocol required by the Certificate Conditions

shall be performed by the Certificate Holders after the commercial operations date of the Facility: One during the "leaf-off" season and one during the "leaf-on" season.

a) Within seven months of the commercial operations date of the Facility, the Certificate Holders shall perform and complete the first Sound Compliance Test and the results shall be submitted to the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, by filing with the Secretary a report from an independent acoustical or noise consultant, no later than eight months after the commercial operations date, specifying whether or not the Facility is found in compliance with all Certificate Conditions on noise of this Certificate during the "leaf-on" or "leaf-off" season as applicable.

b) The second Sound Compliance Test shall be performed and results shall be submitted to the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, by filing with the Secretary subject to the same conditions contained in sub-condition 70(a), but no later than thirteen (13) months after the commencement of operations of the Facility.

71. If the results of the first or the second Sound Compliance Tests, or any subsequent Sound Compliance Test performed by the Certificate Holders or any Violation Tests performed by DPS, or any test performed in response to complaints, indicate that the Facility, related facilities and ancillary equipment do not comply with all Certificate Conditions on noise contained in this Certificate, the Certificate Holders shall:

a) Present minimization options to the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, by filing with the Secretary within 60 days after the filing of a noncompliance test result or the finding of a non-compliance or violation of Certificate Conditions on noise of this Certificate:

(i) Operational minimization options related to noise or vibrations caused by the wind turbines that shall be considered, including, at a minimum, modifying or reducing time of turbine operation, incorporating noise reduced operations, shutting down relevant turbines,

and modifying operational conditions of the turbines.

- (ii) Physical minimization options related to noise or vibration caused by the wind turbines that shall be considered, including installation of serrated edge trails on the turbine blades, replacement or maintenance of noisy components of the equipment, and any other measures as feasible and appropriate.
 - (iii) if applicable, any minimization measures related to noise from transformers (such as walls or barriers) and emergency generators (such as installation of noise walls or barriers, adding or replacing enclosures or silencers to the emergency generator) if any, or any other mitigation measures as appropriate.
- b) Implement any operational noise mitigation measures within 90 calendar days after the finding of a non-compliance or violation situation, as necessary to achieve compliance.
 - c) Implement any physical noise mitigation measures within 150 days after the finding of a non-compliance or violation situation, as necessary to achieve compliance.
 - d) Not operate the turbines of the Facility that caused the violation if the minimization measures are not implemented within the schedules specified in this Certificate Condition, and not operate the turbines without the operational or physical minimization measures that are presented and approved by the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased after they are implemented as specified in these Certificate Conditions.
 - e) Test, document and present to the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, by filing with the Secretary results of any minimization measures and compliance with all Certificate Conditions on noise of this Certificate, no later than 90 days after the minimization measures are implemented.

72. Noise levels from all noise sources from the Wind Generating Facility, related facilities and ancillary equipment shall:
- a) Comply with a maximum noise limit of 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.
 - b) Comply with the limits of 40 dBA L(night-outside) and 45 dBA Lden, annual equivalent continuous average sound level from the Facility outside any existing permanent or seasonal non-participating residence, and a limit of 50 dBA L(night-outside), annual equivalent continuous average nighttime sound level from the Facility outside any existing participating residence.
 - c) Not produce any audible prominent tones, as defined under ANSI S12 .9 Part 4-2005 Annex C at any non-participant residences existing as of the issuance date of this Certificate. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated position shall be increased by 5 dBA for evaluation of compliance with sub-condition 72(a).
 - d) Comply with a maximum noise limit of 65 dB Leq-1-h at the full octave frequency bands of 16, 31.5, and 63 Hertz outside of any non-participant residence existing as of the issuance date of this Certificate in accordance with Annex D of ANSI standard S12 .9-2005/Part 4 Section D.2.(1)(Analysis of sounds with strong low-frequency content).
 - e) Not produce human perceptible vibrations inside any non-participant residence existing as of the issuance date of this Certificate that exceed the limits for residential use recommended in ANSI Standard 52 .71-1983 (August 6, 2012) "Guide to evaluation of human exposure to vibration in Buildings."
 - f) Comply with a limit of 40 dBA Leq (1-hour) at the outside of any non-participating residence from the

collector substation equipment, and subject to the tonal penalties of sub-condition 72(c).

Emergency situations are exempt from any of these limits.

73. The Certificate Holder shall adhere to the following condition regarding Complaints:

- a) The Certificate Holder is required to maintain a log of complaints received relating to noise and vibrations caused by the operation of the Facility, related facilities and ancillary equipment...The log shall include name and contact information of the person that lodges the complaint, name of the property owner(s), address of the residence where the complaint was originated, the date and time of the day underlying the event complained of, and a summary of the complaint.
- b) The Certificate Holder shall provide the Towns of Cohocton, Dansville, Fremont and Wayland with a phone number, email address and mailing address where complaints can be notified, along with a form to report complaints designed according to the details required in subsection (a) of this condition.
- c) All complaints received shall be reported to the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, monthly during the first three years of commercial operations and quarterly thereafter, by filing with the Secretary during the first 10 calendar days of each month (or the first 10 days of each quarter after three years). Reports shall include copies of the complaints and, if available, a description of the probable cause (e.g., outdoor or indoor noise, tones, low frequency noise, amplitude modulation, vibrations, rumbles, rattles, etc., if known); the status of the investigation, summary of findings and whether the Facility has been tested and found in compliance with applicable noise Certificate Conditions or minimization measures have been implemented. If no noise or vibration complaints are received, the Certificate Holder shall submit a letter to the Secretary indicating that no complaints were received during the reporting

period.

- d) Should complaints related to excessive and persistent amplitude modulation occur at any non-participant residence existing as of the issuance date of this Certificate with measured or modeled sound levels exceeding 40 dBA Leq-1-hr, the Certificate Holder shall investigate and measure amplitude modulation at the affected receptors during the time frame when the worst conditions are known, or, if not known, expected, to occur. If the L90-10 minute noise levels (dBA), including any amplitude modulation and prominent tone penalties exceed a noise level of 45 dBA and amplitude modulation is in excess of a 5 dB modulation depth at the evaluated receptor(s) for more than 5% of the time during the identified time frame of evaluation (which will not exceed eight consecutive hours), the Certificate Holder shall continue with the investigation, identify frequency of occurrence and the conditions that may be favorable for its occurrence, and propose minimization measures to avoid or minimize the impacts. Minimization measures that avoid, minimize, resolve or mitigate the amplitude modulation impacts shall be identified and reported to the Siting Board, or the Commission after the Siting Board's jurisdiction has ceased, by filing with the Secretary and implemented after review and approval. Compliance with this Certificate Condition shall be finally demonstrated by conducting a test that shows that the L90-10-minute sound levels (dBA), including a 5-dBA penalty for amplitude modulation (if amplitude modulation depth is in excess of 5 dB for more than 5% of the time in any eight consecutive hours) at that particular location and any additional prominent tone penalties, are lower than or equal to 45 dBA. For any complaints that do not exceed the limits established in the foregoing, the Certificate Holder should handle those complaints under its complaint resolution protocol.
- e) The Certificate Holder shall investigate all other noise and vibration complaints by following the Complaint Protocol in, and consistent with the limits imposed by, these Certificate Conditions.

74. The Certificate Holder is required to maintain a log of operational conditions of all the turbines with a 10-minute time interval to include at a minimum wind velocity and wind direction at the hub heights, angular speed of the rotors and generated power and notes indicating operational conditions that could affect the noise levels (e.g. maintenance, shutdown, etc.). A schedule and log of Noise Reduced Operations for individual turbines shall also be kept and updated as necessary.
75. The Certificate Holder shall comply with the following conditions regarding construction noise:
 - a) Comply with all local laws regulating construction noise;
 - b) Maintain functioning mufflers on all transportation and construction machinery;
 - c) Respond to noise and vibration complaints according to the Protocols established in the Certificate Conditions.

VI. Facility Construction and Maintenance

General

- ~~75-76.~~ At least 60 days prior to the start of construction, the Certificate Holder shall become a member of Dig Safely New York. The Certificate Holder shall require all contractors, excavators, and operators associated with its facilities to comply with the requirements of the Commission's regulations regarding the protection of underground facilities (16 NYCRR Part 753).
- ~~76-77.~~ The Certificate Holder shall comply with all requirements of the Commission's regulations regarding identification and numbering of above ground utility poles (16 NYCRR Part 217).
- ~~77-78.~~ The Certificate Holder shall establish funding for an independent, third-party environmental monitor to oversee compliance with environmental commitments and permit requirements. The environmental monitor shall perform daily inspections of construction work sites and, in consultation with DPS Staff, issue regular reporting and compliance audits. The Certificate Holder shall identify and provide

qualifications and contact information for the independent, third-party monitor for environmental compliance monitoring; there shall be an independent, third party agricultural monitor. If the Department of Agriculture and Markets (DAM) agrees that the independent third-party monitor is qualified on agricultural issues, one monitor can act as both environmental and agricultural monitor.

~~78-79.~~ The environmental monitor shall have stop work authority over all aspects of the Project.

~~79-80.~~ The Certificate Holder shall ensure that its environmental monitor and construction supervisor are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor such Certificate Holder's contractor's compliance with the provisions of every Order issued in this proceeding with respect to such Certificate Holder's Project components and to those sections of the Public Service Law, Environmental Conservation Law, Section 401 Water Quality Certification, and the SEEP.

~~80-81.~~ At least 14 days before the commencement of construction, the Certificate Holder shall hold a pre-construction meeting with DPS Staff, Staff of the New York State Department of Agriculture and Markets (DAM), New York State Department of Transportation (DOT), Town Supervisors and Highway Departments, and DEC. The Balance of Plant (BOP) construction contractor and the environmental compliance monitor shall be required to attend the preconstruction meeting.

- a) An agenda, the location, and an attendee list shall be agreed upon between DPS Staff and the Certificate Holder and distributed to the attendee list at least one week prior to the meeting;
- b) Maps showing designated travel routes, construction worker parking and access road locations and a general project schedule shall be distributed to the attendee list at least one week prior to the meeting;
- c) The Certificate Holder shall supply draft minutes from this meeting to the attendee list for corrections or comments, and thereafter the Certificate Holder shall issue the finalized meeting minutes;

- d) If, for any reason, the BOP Contractor cannot finish the construction of the Project, and one or more new BOP contractors are needed, there shall be another preconstruction meeting with the same format as outlined above.

81-82. Modifications to the approved SEEP:

- a) All proposed changes to the approved SEEP shall be reported to DPS Staff. DPS Staff will refer any proposed changes that will not result in any increase in adverse environmental impacts, or that are not directly related to contested issues decided by the Hearing Examiners or the Siting Board during the proceeding, to the Chief of the Environmental Certification and Compliance Section for approval. Proposed changes to the SEEP shall be reviewed expeditiously. DPS Staff will refer all other proposed changes to the Siting Board for approval.
- b) Upon being advised that DPS Staff will refer a proposed change to the Siting Board, the requesting Certificate Holder shall notify all parties to the proceeding, as well as property owners and lessees whose property is affected by the proposed change. The notice shall:
 - (i) describe the original conditions and the requested change;
 - (ii) state that documents supporting the request are available for inspection at specified locations; and
 - (iii) state that persons may comment by writing or calling (followed by written confirmation) the Secretary within 21 days of the notification date. Any delay in receipt of written confirmation will not delay Siting Board action on the proposed change.
- c) The Certificate Holders shall not execute any proposed change until the requesting Certificate Holder has received oral or written approval, except in emergency situations threatening personal injury, property, or severe adverse environmental impact. Any oral approval from DPS Staff will be followed by written approval

from the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas and Water, or the Siting Board as soon as possible thereafter.

82-83. Construction and routine maintenance activities on the Project shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday. Due to safety or continuous operation requirements, construction and routine maintenance activities may infrequently be scheduled to occur on Sundays, with 24-hour prior notification (to the extent practical) to DPS Staff and the affected municipality.

- a) Construction work hour limits apply to Facility construction period maintenance, and to construction-related activities including delivery and unloading of materials, maintenance and repairs of construction equipment at outdoor locations, large vehicles idling for extended periods at roadside locations, and related disturbances.
- b) If, due to safety or continuous operation requirements, maintenance or construction activities are required to occur on Sundays or beyond the allowable work hours Monday through Saturday, the Certificate Holder shall notify DPS Staff, affected landowners and the municipalities. Such notice shall be given at least 24 hours in advance, unless such maintenance or construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impact that arise less than 24 hours in advance.

83-84. At least two weeks before construction begins in any project area the Certificate Holder shall stake and/or flag the following:

- a) The limits of clearing;
- b) The limits of disturbance;
- c) All on or off right-of-way (ROW) access roads;
- d) Other areas needed for construction such as, but not limited to, turbine work areas, laydowns, and storage areas;

- e) All wetlands;
- f) Designated restrictive areas and sensitive environmental resources; and
- g) Streams and waterbodies.

84-85. The Certificate Holder shall confine construction and subsequent maintenance for its Project Components to the Facility site and approved additional work areas, as delineated in approved construction plans (SEEP documents or equivalent). If a local contractor is used for the work, the local contractor's facility may also be used as a marshaling yard.

85-86. The Certificate Holder shall organize and conduct monthly site-compliance inspections for DPS Staff as needed during construction and restoration of the Facility site.

- a) The Certificate Holder shall ensure that the required safety procedures and worksite hazards are communicated to site inspectors in a documented tailboard meeting prior to entry onto the site of work on such Certificate Holder's Project Components.
- b) The monthly inspections shall include a review of the status of compliance with all conditions contained in the Certificate and any other Order issued in this proceeding, other legal requirements and commitments, as well as a field review of the Project site, if necessary. The inspection also may include:
 - (i) Review of all complaints received, and their proposed or actual resolutions;
 - (ii) Review of any significant comments, concerns, or suggestions made by the public, local governments, or other agencies and indicate how the Certificate Holder has responded to the public, local governments, or other agencies;
 - (iii) Review of the status of the Project in relation to the overall schedule established prior to the commencement of construction; and

(iv) Other items the Certificate Holder or DPS Staff consider appropriate.

c) The Certificate Holder shall provide a written record of the results of the inspection, including resolution of issues and additional measures to be taken, to agencies involved in the inspection audit.

Environmental

~~86-87.~~ All construction vehicles must be equipped with a spill kit. Any leaks must be stopped and cleaned up immediately.

~~87-88.~~ Any debris or excess construction materials shall be removed to a facility duly authorized to receive such material. No burying of construction debris or excess construction materials will be allowed.

~~88-89.~~ Cleared vegetation and slash will not be buried or burned.

~~89-90.~~ Tree and vegetation clearing shall be limited to the minimum necessary for Facility construction and operation. Surrounding trees and vegetation will not be cut down on any property solely to reduce turbulence or increase wind flow to the Facility.

~~90-91.~~ In connection with vegetation clearing, the Certificate Holder shall:

- a) comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and ECL § 9-1303 and any quarantine orders issued thereunder;
- b) not create a maximum wood chip depth greater than three inches, except for chip roads (if applicable), nor store or dispose wood chips in wetlands, within stream banks, delineated floodways, or active agricultural fields; and
- c) coordinate with landowners to salvage merchantable logs and fuel-wood. Where merchantable logs and fuel-wood will not be removed from the site during clearing activities, SEEP Construction plans shall indicate locations of stockpiles to be established for removal from site or future landowner resource recovery.

~~91-92.~~ Use of hay for erosion control or other construction-related purposes is prohibited to minimize the risk of introduction of invasive plant species.

~~92-93.~~ The Certificate Holder shall implement all practical measures to achieve a minimum of 80% vegetative cover across all disturbed soil areas by the end of the first full growing season following construction.

~~93-94.~~ The Certificate Holder shall restore disturbed areas, ruts, and rills to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations unless the approved SEEP specifies otherwise. Disturbed roadways shall be restored to their original preconstruction condition or improved.

Threatened and Endangered Species

~~94-95.~~ To reduce mortality to bats during construction, all tree clearing activities shall be conducted between November 1 and April 1 in all occupied habitat areas and unless otherwise approved by DPS Staff, in consultation with NYSDEC. This limitation does not include trees less than or equal to 3 inches in diameter at breast height (DBH).

~~95-96.~~ Excluding bald eagles (*Haliaeetus leucocephalus*), if at any time during construction and operation of the Facility, an active nest of any federally, or State, listed threatened or endangered bird species is discovered within the Facility site, the regional DEC Natural Resource Supervisor and DPS Staff will be notified within 48 hours of discovery, and the nest site will be marked. An area 500 feet in radius around the nest will be posted and avoided to the maximum extent practicable until notice to continue construction at that site is granted by DPS Staff, in consultation with the regional DEC Natural Resource Supervisor.

~~96-97.~~ If at any time during construction and operation of the Facility a bald eagle nest is identified within the Facility site, the regional DEC Natural Resource Supervisor and DPS Staff will be notified within 48 hours of discovery, and prior to any disturbance of the nest or immediate area. An area 660 feet in radius from the nest tree will be posted and avoided to the maximum extent practicable until notice to continue construction at that site is granted by DPS Staff, in consultation with the regional DEC Natural Resources Supervisor.

Wetlands and Streams, Vegetation, and Invasive Species

- ~~97-98.~~ All equipment and machinery shall be stored and safely contained more than 100 feet from wetlands and waterbodies at the end of each work day unless moving the equipment will cause additional environmental impact.
- ~~98-99.~~ Fuel or other chemical storage containers shall be located at least 100 feet from wetlands and waterbodies.
- ~~99-100.~~ All mobile equipment, excluding dewatering pumps, must be fueled in a location at least 100 feet from wetlands and waterbodies unless moving the equipment will cause additional environmental impact. Dewatering pumps operated closer than 100 feet from the stream bank, wetland, or waterbody, must be within a secondary containment large enough to hold the pump and accommodate refueling.
- ~~100-101.~~ Spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to DEC's Spill Hotline (1-800-457-7362) within two hours, in accordance with the DEC Spill Reporting and Initial Notification Requirements Technical Field Guidance. DPS Staff shall also be notified of all reported spills.
- ~~101-102.~~ All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, fly ash, broken concrete, demolition debris, garbage, household refuse, tires, woody materials including tree or landscape debris, and metal objects. Reasonable efforts will be made use fill materials that are visually free of invasive species.
- ~~102-103.~~ Turbid water resulting from dewatering operations shall not be allowed to enter any wetland, stream or water body. Water resulting from dewatering operations shall be discharged directly to settling basins, filter bags, or other approved device. All necessary measures shall be implemented to prevent any substantial visible increase in turbidity or sedimentation downstream of the work site.
- ~~103-104.~~ All disturbed soils within regulated freshwater wetlands and the associated adjacent areas must be seeded with a native seed mix or crops consistent with existing agricultural uses. Mulch shall be maintained until the disturbed area is permanently stabilized. Additional seeding

shall be completed as necessary to achieve an 80% vegetative cover across all disturbed areas.

~~104-105.~~ Restoration of wetlands and NYS-regulated adjacent areas to pre-construction contours must be completed within 48 hours of final backfilling of the trench.

- a) Immediately upon completion of grading, the area shall be seeded with an appropriate species mix.
- b) Restored areas shall be monitored for a minimum of 5 years. Monitoring shall continue until an 80% cover of appropriate species has been reestablished over all portions of the replanted area, unless the invasive species baseline survey indicates a smaller percentage of appropriate species exists prior to construction.

~~105-106.~~ Cut vegetation in wetlands may be left in place (drop and lop or piled in dry or seasonally saturated portions of freshwater wetlands and 100-foot adjacent areas to create wildlife brush piles).

~~106-107.~~ Installation of underground collection lines in wetlands shall be performed using the following methods, to be indicated in the final SEEP and ~~Environmental~~ environmental controls documents:

- a) Topsoil shall be segregated from subsoil and temporarily placed onto a geotextile blanket.
- b) The Certificate Holder shall implement best management practices to minimize soil compaction.
- c) The length of the trench exposed shall not exceed 1,500 feet in a wetland to the maximum extent practicable.
- d) All reasonable efforts shall be made to backfill open trenches within the same work day.
- e) All excess materials shall be completely removed from wetlands to upland areas more than 100 feet from State wetlands and suitably stabilized.

~~107-108.~~ Installation of access roads through wetlands shall be performed using the following methods, to be indicated in the final SEEP and ~~E~~environmental controls documents:

- a) vegetation and topsoil shall be removed;
- b) a layer of geotextile fabric shall be placed in the location of the wetland crossing;
- c) at least six inches of gravel shall be placed over geotextile fabric in the location of the wetland crossing.

~~108-109.~~ 109. To control the spread of invasive insects, the Certificate Holder shall provide training for clearing and construction crews to identify the Asian Longhorned Beetle and the Emerald Ash Borer and other invasive insects of concern as a potential problem at the project site. If these insects are found, they must be reported to the DEC regional forester as soon as practicable.

~~109-110.~~ 110. Concrete washouts shall be located and installed to minimize impacts to water resources. Locations should be at least 100 feet from any wetland, waterbody and agricultural field, to the maximum extent practicable.

~~110-111.~~ 111. In-stream work shall only occur in dry conditions.

~~111-112.~~ 112. The restored stream channel shall be equal in width, depth, gradient, length and character to the pre-existing stream channel and tie in smoothly to profile of the stream channel upstream and downstream of the project area. The planform of any stream shall not be changed.

~~112-113.~~ 113. Trees shall not be felled into any stream.

~~113-114.~~ 114. The Certificate Holder shall be responsible for checking all culverts and assuring that they are not crushed or blocked during construction and restoration of the Project. If a culvert is blocked or crushed, or otherwise damaged, the Certificate Holder shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage.

~~114-115.~~ 115. The creation, modification or improvement of any permanent road/stream crossing must meet the following requirements:

- a) Culvert pipes shall be designed to safely pass the 2% annual chance storm event;

- b) Culvert pipes must be embedded beneath the existing grade of the stream channel;
- c) Width of the structure must be a minimum of 1.25 times (1.25X) width of the mean high-water channel, as practicable; and
- d) The culvert slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert must be used.

115-116. Horizontal Directional Drilling (HDD):

- a) Drilling fluid circulation shall be maintained to the extent practical.
- b) If inadvertent returns occur in upland areas, the fluids shall be immediately contained and collected.
- c) If the amount of drilling fluids released is not enough to allow practical collection, the affected area will be diluted with freshwater and allowed to dry and dissipate naturally.
- d) If the amount of surface return exceeds that which can be collected using small pumps, drilling operations shall be suspended until surface volumes can be brought under control.
- e) If inadvertent drilling fluids surface returns occur in an environmentally sensitive area (i.e. wetlands and water bodies) the returns shall be monitored and documented.
- f) Drilling operations must be suspended if the surface returns pose a threat to the resource or to public health and safety.
- g) Removal of released fluids from environmentally sensitive areas will take place only if the removal does not cause additional adverse impacts to the resource.
- h) If inadvertent drilling fluids surface returns occur in an environmentally sensitive area DPS Staff shall be notified immediately and a monitoring report

summarizing the location of surface returns, estimated quantity of fluid and summary of cleanup efforts shall be submitted within 48 hours of the occurrence.

~~116-117.~~ During periods of work activity, flow immediately downstream of the work site shall equal flow immediately upstream of the work site.

~~117-118.~~ Any in-stream structures placed in a stream must not create a drop height greater than 6 inches.

VII. Facility Operation

~~118-119.~~ The Certificate Holder shall operate the Facility in accordance with the Interconnection Agreement, approved tariffs and applicable rules and protocols of NYSEG, NYISO, NYSRC, NPCC, NERC and successor organizations.

~~119-120.~~ The Certificate Holder shall operate the Facility in full compliance with the applicable reliability criteria of NYSEG, NYISO, NPCC, NYSRC, NERC and successors. If it fails to meet the reliability criteria at any time, the Certificate Holder shall notify the NYISO immediately, in accordance with NYISO requirements, and shall simultaneously provide the Board, or the Commission after the Board's jurisdiction has ceased, by filing with the Secretary and NYSEG a copy of the NYISO notice.

~~120-121.~~ The Certificate Holder shall obey unit commitment and dispatch instructions issued by NYISO, or its successor, in order to maintain the reliability of the transmission system. In the event that the NYISO System Operator encounters communication difficulties, the Certificate Holder shall obey dispatch instructions issued by the NYSEG Control Center, or its successor, in order to maintain the reliability of the transmission system.

~~121-122.~~ Good Utility Practices:

- a) The Certificate Holder shall abide by Good Utility Practice, which shall include, but not be limited to, NERC, NPCC, NYSRC, and NYISO criteria, rules, guidelines and standards, including the rules, guidelines and criteria of any successor organization to the foregoing entities.

- b) When applied to the Certificate Holder, the term Good Utility Practice shall also include standards applicable to an independent power producer connecting to the distribution or transmission facilities or system of a utility.
- c) Except for periods during which the authorized facilities are unable to safely and reliably convey electrical energy to the New York transmission system (e.g., because of problems with the authorized facilities themselves or upstream electrical equipment), the Facility shall be exclusively connected to the New York transmission system via the facilities identified and authorized in these conditions.

~~122-123.~~ The Certificate Holder shall work with NYSEG engineers and safety personnel on testing and energizing equipment in the authorized interconnection and collection substations. If NYSEG's testing protocol is not used, a testing protocol shall be developed and provided to NYSEG for review and acceptance. The Certificate Holder shall file with the Secretary a copy of the final testing design protocol within 30 days of NYSEG's acceptance.

~~123-124.~~ The Certificate Holder shall notify DPS Staff of meetings related to the electrical interconnection of the project to the NYSEG transmission system and provide the opportunity for DPS Staff to attend those meetings.

~~124-125.~~ Transmission Related Incidents:

- a) The Certificate Holder shall call the DPS Bulk Electric System Section within one hour to report any transmission related incident that affects the operation of the Facility.
- b) The Certificate Holder shall file with the Secretary a report on any such incident within seven days and provide a copy of the report to NYSEG. The report shall contain, when available, copies of applicable drawings, descriptions of the equipment involved, a description of the incident and a discussion of how future occurrences will be prevented.

- c) The Certificate Holder shall work cooperatively with NYSEG, NYISO, NYSRC, NERC and the NPCC to prevent any future occurrences.

~~125-126.~~ If NYSEG or the NYISO bring concerns to the Commission, the Certificate Holder shall be obligated to address those concerns and shall make any necessary modifications to its Interconnection Facility if the NYISO or NYSEG find such facilities are causing, or have caused, reliability problems to the New York State Transmission System.

~~126-127.~~ If, subsequent to the completion of construction of the Facility, no electric power is generated and transferred out of such plant for a period of more than a year, the Commission may consider advising the Siting Board that the amendment, revocation or suspension of the Certificate may be appropriate.

~~127-128.~~ Facility Malfunction:

- a) In the event that a malfunction of the Facility causes a significant reduction in the capability of such Facility to deliver power, the Certificate Holder shall promptly file with the Secretary and provide to NYSEG copies of all notices, filings, and other substantive written communications with the NYISO as to such reduction, any plans for making repairs to remedy the reduction, and the schedule for any such repairs.
- b) The Certificate Holder shall provide monthly reports to the Secretary and NYSEG on the progress of any repairs.
- c) If such equipment failure is not completely repaired within nine months of its occurrence, the Certificate Holder shall provide a detailed report to the Secretary, setting forth the progress on the repairs and indicating whether the repairs will be completed within one year of the date of failure. Wind turbines shall be decommissioned if they are non-operational for a period of one year and a day. However, if the Certificate Holder is expecting delays due to a part manufacturer or complications regarding the repair of non-operational turbine(s), it shall petition the Secretary for an extended amount of time if it is

expected that certain turbine(s) will not be in operation for more than one year and a day. The petition shall include an explanation of the circumstance and an estimation of the amount of time it will take to repair the turbine(s) and shall demonstrate why the repairs should continue to be pursued.

~~128.~~129. In the event of a blade failure, fire or other catastrophic event involving a wind turbine and its associated equipment, the DPS Chief of Bulk Systems shall be notified no later than 12 hours following such an event.

~~129.~~130. The Certificate Holder shall have an inspection program for the wind turbine blades and other turbine components. Reports shall be filed annually with the Secretary identifying any major damage, defects or any other problems with the wind turbine blades, or indicating that no such damage, defect or problem was found. The annual report shall summarize maintenance and inspection activities performed and include any photographs of the area in question, the repairs undertaken and a diagram of the wind turbine blade.