

NEW YORK STATE BOARD ON ELECTRIC  
GENERATION SITING AND THE ENVIRONMENT

CASE 15-F-0122 - Application of Baron Winds, LLC for a  
Certificate of Environmental Compatibility and  
Public Need to Construct a Wind Energy  
Facility.

RULING ESTABLISHING PROCEDURAL SCHEDULE AND  
ADDRESSING OTHER MATTERS ASSOCIATED WITH BARON WIND'S  
AMENDMENT PETITION II AND TRANSFER PETITION

(Issued February 14, 2023)

MAUREEN F. LEARY, Presiding Examiner:

INTRODUCTION

This ruling establishes a procedural schedule and addresses other issues related to consideration of the petitions by Baron Winds, LLC (Baron) to amend and partially transfer the September 12, 2019 Order Issuing a Certificate of Environmental Compatibility and Public Need, with Conditions (Certificate Order) by the Board on Electric Generation Siting and the Environment (Siting Board) in this Public Service Law (PSL) Article 10 proceeding.<sup>1</sup> Baron's petition to amend is brought pursuant to 16 NYCRR §1000.16 and is the second it has brought (Amendment Petition II) since the Siting Board's issuance of the

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<sup>1</sup> Baron's Amendment Petition II is styled as a "Joint Petition" and is filed with "Baron Winds II, LLC" (Baron II) as a named petitioner. Baron II is not the Certificate Holder and is otherwise not a cognizable petitioning party in this proceeding. In a separate Joint Petition, Baron and Baron II also request Siting Board approval of the "partial" transfer of the Article 10 Certificate to Baron II pursuant to 16 NYCRR §1000.17 (Transfer Petition). Before the Siting Board makes the required findings and grants the Transfer Petition, Baron II lacks standing to seek joint relief with Baron regarding Amendment Petition II but may seek party status.

Certificate Order. Baron's petition to transfer (Transfer Petition) is brought pursuant to 16 NYCRR §1000.17 and deals with certain property interests related to the Project.

#### BACKGROUND

##### The Siting Board's Certificate Order

The Siting Board's September 12, 2019 Certificate Order authorized Baron to construct and operate a 242 megawatt commercial-scale wind facility in the Towns of Cohocton, Dansville, Fremont, and Wayland, in Steuben County. The Siting Board's Certificate Order found that the proposed Facility, as set forth in its Application,<sup>2</sup> would meet Article 10's requirements and expressly approved the Facility layout specified in Baron's Article 10 Application, including a total of 68 wind turbines and the use of two turbine models of approximately 492 feet in height with generating capacity of 2.62 and 3.67 megawatts; 16.5 miles of access roads; 31 miles of underground collection lines; one collection substation and point of interconnection facilities; four permanent, 100 foot tall meteorological towers; two temporary staging/laydown yards for use during construction; a 4,000 to 6,000 square foot operations and maintenance (O&M) building; and other associated Facility components.<sup>3</sup>

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<sup>2</sup> Baron began the Article 10 Application process on November 27, 2017 and filed corrections, updates, and supplemental Application materials on December 20, 2017, January 2, 2018, March 12, 2018, June 15, 2018, June 18, 2018, June 29, 2018, August 2, 2018, August 23, 2018, and February 1, 2019. .

<sup>3</sup> Order Granting Certificate of Environmental Compatibility and Public Need, with Conditions (issued September 12, 2019), pp. 2-3 (citing Hearing Exhibit 9, Updated Application Exhibit 6, p. 2).

In an October 11, 2019 verification by its Chief Executive Officer, Baron accepted the Certificate without qualification pursuant to 16 NYCRR §1000.15(a) and the terms of the Certificate Order.<sup>4</sup>

Amendment Petition I

Baron filed the first of two petitions to amend the Certificate (Amendment Petition I) on March 9, 2020, approximately five months after filing its unqualified verified Certificate acceptance. Amendment Petition I proposed the construction and operation of Phase I of the Project to be located in the Towns of Cohocton, Dansville, and Wayland. Amendment Petition I excluded the portion of the Facility located in the Town of Fremont.<sup>5</sup> In an April 27, 2020 letter, the Secretary to the Siting Board determined that Baron's proposed changes did not constitute a "revision" under 16 NYCRR §1000.16(b) and, consequently, no hearing would be required.

Among other things, Amendment Petition I sought approval to increase the size of many of the Project's turbines from 492 feet to 650 feet; to reduce by two (to 33) the total number of Phase I turbines located in the three Towns;<sup>6</sup> and to move turbines, access roads, collection system lines, the O&M building, and other facility components.<sup>7</sup> Amendment Petition I asserted that the Facility modifications "will not have a

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<sup>4</sup> DMM Item No. 468, October 11, 2010 Verification of Acceptance of Baron Chief Executive Officer Andrew Young.

<sup>5</sup> Petition of Baron Winds LLC for an Amendment to the Certificate of Environmental Compatibility and Public Need for the Baron Winds Project (March 9, 2020), pp. 3-4. Amendment Petition I sought no relief associated with the portion of the Project located in the Town of Fremont.

<sup>6</sup> Amendment Petition I reduced the total number of turbines in Phase I from 35 to 33 turbines, the majority of which are located in the Town of Cohocton.

<sup>7</sup> Amendment Petition I, pp. 3-4.

significant adverse impact on the environment as compared with the impacts associated with the Certificated Facility;" that the types of impacts associated with Phase I were already assessed in the Siting Board's Certificate Order; that any impacts associated with Phase I would be minimized and mitigated; and that Amendment Petition I should not be considered a Certificate "revision" subject to a hearing.<sup>8</sup> Amendment Petition I indicated that modifications to the Facility were necessary "to optimize Facility design and ensure the Facility can remain financially viable" because Baron was to lose a percentage of Production Tax Credits in failing to meet a 2020 commercial operation date.<sup>9</sup> Baron claimed that the details of all relevant Phase I changes to the Project and associated impacts were included in Exhibit A to Amendment Petition I.

In a May 5, 2020 order, the Siting Board granted Baron's Amendment Petition I, authorizing construction of the Phase I portion of the Project located in the Towns of Cohocton, Dansville and Wayland, including the use of 650 foot turbines with greater megawatt capacity, relocation of certain components, and other changes. Thereafter, Baron submitted several compliance filings, which the Siting Board approved, allowing Baron to commence construction of Phase I of the Project. At this time, Phase I is almost fully operational.

PSL §§68 and 70 Petitions

On July 6, 2022, Baron II filed a petition seeking Public Service Commission (Commission) approval and issuance of a certificate of public convenience and necessity and lightened regulation pursuant to PSL §68 related to Phase II of the

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<sup>8</sup> Amendment Petition I, pp. 4-5.

<sup>9</sup> Amendment Petition I, p. 6.

Project (Section 68 Petition).<sup>10</sup> The Town of Fremont filed opposition to the Section 68 Petition and individual Alice Sokolow filed a motion to suspend Phase II of the Project. Also on July 6, 2022, Baron and Baron II jointly filed a petition requesting Commission approval of the partial transfer or assignment of certain property interests, including agreements, leases, options, and ownership of real property associated with Phase II of the Project pursuant to Public Service Law (PSL) §70 (Section 70 Petition).<sup>11</sup> The Town of Fremont filed opposition to the Section 70 Petition and individual Alice Sokolow filed a motion to suspend Phase II of the Project.

Article 10 Transfer Petition

On September 6, 2022, Baron and Baron II jointly filed a petition pursuant to 16 NYCRR §1000.17 for “partial” transfer of the Certificate (Transfer Petition).<sup>12</sup> The Transfer Petition claims that the proposed transfer is necessary “to facilitate the tax equity financing” of both Phase I and Phase II.<sup>13</sup>

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<sup>10</sup> Case 22-E-0400, Petition of Baron Winds II LLC for an Order Granting a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law and for an Order Granting Lightened Regulation (filed July 6, 2022). At the time Baron filed the Section 68 Petition, it had not filed Amendment Petition II.

<sup>11</sup> Case 22-E-0398, Petition of Baron Winds, LLC, and Baron Winds II LLC for Approval under Section 70 of the Public Service Law for the Partial Transfer of the Certificate of Environmental Compatibility and Public Need of Baron Winds Energy Project (filed July 6, 2022), p. 6, n.7.

<sup>12</sup> DMM Item No. 667, Joint Petition of Baron Winds LLC and Baron Winds II LLC for Approval of the Transfer of the Certificate of Environmental Compatibility and Public Need for the Baron Winds Energy Project (filed September 6, 2022).

<sup>13</sup> Transfer Petition, p. 8.

The Transfer Petition attaches a description of Phase II of the Project to be transferred to Baron II and states that Baron and Baron II "will share the interconnection facilities, and the O&M building, and may also share the aircraft detection lighting system and communication system for Phase I and Phase II."<sup>14</sup> The Transfer Petition asserts that Baron and Baron II "will comply with the terms, limitations and conditions contained in the CECPN," and that "Baron Winds II is qualified to carry out the provisions of the CECPN and any orders issued thereunder with respect to Phase II of the Facility."<sup>15</sup> It also asserts that "there are certain Certificate Conditions that will be or have been satisfied by a single filing applicable to the Facility as a whole."<sup>16</sup> The Transfer Petition refers to mitigation plans submitted as compliance filings for Phase I and that no additional mitigation plans will be submitted for Phase II, but that it will work with DPS Staff to ensure all necessary filings and approvals for Phase II are identified prior to proceeding with construction.<sup>17</sup>

Amendment Petition II

On September 6, 2022, Baron and Baron II jointly filed Amendment Petition II, which addressed the Phase II portion of the Project located primarily in the Town of Fremont.<sup>18</sup> Baron

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<sup>14</sup> Transfer Petition, p. 6.

<sup>15</sup> Transfer Petition, p. 9.

<sup>16</sup> Transfer Petition, pp. 6-7.

<sup>17</sup> Transfer Petition, p. 7.

<sup>18</sup> DMM Item No. 670, Joint Petition of Baron Winds LLC and Baron Winds II LLC for an Amendment to the Certificate of Environmental Compatibility and Public Need for the Baron Winds Project (filed September 6, 2022). Amendment Petition II (Exhibit A, p. 2) states that parts of Phase II are also located in the Town of Cohocton (underground collection lines and the O&M building) and the Town of Wayland (underground collection lines).

filed with Amendment Petition II several additional application materials, but did not include affidavits that identified the preparers of the materials submitted. On October 4, 2022, Baron submitted \$75,000 in intervenor funding to foster participation in Amendment Petition II.<sup>19</sup>

Amendment Petition II attaches as Exhibit A additional details regarding the specific proposed changes to several aspects of the Project and in part compares the initial Siting Board Certificate Order authorization with the changes proposed, including but not limited to:

Land Use and Facility Design/Layout

- Increase of the total Facility Site to 5,211.5 acres and increase of potential impacts to 147.3 acres from component (from 247.2 acres to 394.5 acres) (Exh. A, pp. 2-5, Table 2-2);<sup>20</sup>
- Increase in turbine height (from 492 to 650 feet) for up to 26 turbines, use of different turbine models, and increase in turbine radius from 200 feet to 350 feet, with larger foundations, larger assembly areas around foundations, and the addition of ancillary road improvements and turbine/contractor staging areas (Exh. A, \$1, pp. 3, 5);
- Change in the locations of 25 turbines, the collection substation, access roads, collection lines, construction laydown yards, batch plant, and

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<sup>19</sup> In submitting this amount of intervenor funding, Baron relies on the Secretary's September 20, 2022 letter requesting that amount. PSL §164(6)(a) caps at \$75,000 the additional required intervenor funding if Baron seeks to amend its application, but does not apply if Baron seeks to amend the existing Certificate Order, as evident here. The issue of the appropriate amount of intervenor funding Baron is required to submit in seeking to amend the existing Certificate Order may be addressed in a separate ruling in order to foster public and municipal participation in Amendment Petition II.

<sup>20</sup> Unless otherwise noted, references are to Exhibit A attached to Amendment Petition II.

meteorological towers (Exh. A, §1, pp. 3-4, Table 1-1);

- Increase of underground collection lines from 31 miles to 32.5 miles, with an additional 5 miles of collector bores and impacts to an additional 5.7 acres (Exh. A, §4, p. 11 n. 5; §34, p. 57); increase in width of collection line corridors (width increase not defined); and the addition of 1.8 miles of bore access roads impacting an additional 16.6 acres (Exh. A, §2, pp. 2 n. 3, p. 5, Table 2-2);
- Addition of new collection substation on 0.4 acres (Exh. A, p. 2);

Agricultural Resources:

- Increase of 154.7 acres in impacts to land located in agricultural districts (from 3,533.9 acres to 3,688.6 acres), and increases to use of cultivated crop fields (from 108.5 acres to 213.3 acres), hay/pasture fields (from 33.7 acres to 64.4 acres), and mixed forests (from 8.4 acres to 21.8 acres) (Exh. A, §4, p. 10, Table 4-2; §22, p. 27);
- Increase to the use of approximately 40 acres of land enrolled in a New York State Certified Agricultural District (from 127.7 acres to 167.5 acres) and conversion of an additional 23.1 acres of agricultural land (Exh. A, §4, p. 9);
- Increase of 121 acres in the total agricultural soils impacted (from 207.6 acres to 328.5 acres for Phase II), with 71 percent of soils classified as either prime farmland soils, prime farmland soils if drained, or farmland of statewide importance (Exh. A, §4, p. 10; §21, p. 24);
- Overall increases to the use of agricultural land (from 2,938.1 acres to 3,221.8 acres); residential land (from 833.3 acres to 1242.3 acres); vacant land (from 465.6 acres to 687.7 acres); and unassigned roads (from 0.0 to 59.4 acres) (Exh. A, §4, pp. 10-12, Table 4-3);



### Cultural Resources

- Archeological: Increase of 54 acres within the Area of Potential Effects having "elevated sensitivity" for archaeological impacts, including "several structures located within and immediately adjacent to the area of potential effect" and "elevated sensitivity for historic-period sites," with three 19th to 20th century sites (Exh. A, §20, pp. 19-20);
- Cultural/Historic Visual Effects: Addition of 4.63 square miles of visual impacts to historic resources (Exh. A, §20, p. 20);

### Health and Safety

- Shadow Flicker: A total of 12 residential landowners potentially receiving shadow flicker for more than 30 hours annually, and a total of 39 residential landowners (35 in the Town of Fremont) potentially receiving shadow flicker of more than 20 hours annually (Exh. A, §15, pp. 16-17);

### Visual Impacts

- Increase in overall Project visibility by 10.3 square mile within the visual study area due to increase to turbine height and turbine location changes, noting that a "majority of viewpoints identified in the 2017 VIA will experience a perceptible change as a result of the proposed layout revisions" (Exh. A, §24, pp. 48-49);

### Geology

- Increase of 60 percent to the Project's limits of disturbance (from 247.2 acres to 394.6 acres) (Exh. A, §21, pp. 24-26, Table 21-3);

### Terrestrial Ecology and Surface Water Impacts

- Increase in vegetation disturbance (from 247.2 acres to 394.6 acres) (Exh. A, §22, pp. 27-29, Table 22-2);
- Addition of 72 streams now located in Phase II Project Area, eight of which are "protected," i.e., classified under 6 NYCRR Part 701 (six are designated Class A, one is Class A(T), one is Class C(TS) (Exh. A, §23, pp. 42-47, Table 23-1);

Communications and Air Traffic Impacts

- Disruption to 18 television stations requiring acquisition of "high-gain directional antenna" to be used "outdoors and oriented towards the signal origin" (Exh. A, §26, p. 53);
- Department of Defense preliminary determination that Phase II will have an adverse impact on radar operations conducted by the North American Aerospace Defense Command (for Dansville Common Air Route Surveillance Radar); no FAA response to request for No Hazard determination for increased turbine height (Exh. A, §25, p. 54);

Decommissioning

- Modification of Certificate Condition 44 to reduce decommissioning estimate and required letter of credit amount from \$9.76 million to \$1.25 million (Amendment Petition, pp. 7-8, Appendix M);

Local Laws

- Request that the Siting Board not apply Town of Fremont's wind law setting the maximum turbine height at 500 feet. (Exh. A, §31, p. 56).

Although Amendment Petition II was required to be filed with affidavits of service and publication,<sup>21</sup> Baron did not file same until January 10, 2023, and later filed corrections to those affidavits on January 31, 2023. The corrected affidavits of service indicate that notice of Amendment Petition II was served on "adjacent landowners out to 5,000 feet of infrastructure" of the Facility.<sup>22</sup> Additional public outreach regarding Amendment Petition II is not apparent, although the

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<sup>21</sup> 16 NYCRR §1000.16(b)(6) ("petition shall be accompanied by an affidavit of publication and service showing that the required publication and service of documents was accomplished").

<sup>22</sup> DMM Item No. 723, Affidavits of R. Butt and S.B. Gravel (dated January 30, 2023).

Town of Fremont and certain individuals filed opposition to Amendment Petition II.

January 17, 2023 Preliminary Conference

On January 17, 2023 the Administrative Law Judge (ALJ) conducted a preliminary conference related to Amendment Petition II, at which the parties proposed dates for a procedural schedule to consider Amendment Petition II and discussed other issues.<sup>23</sup> This ruling addresses the procedural schedule and some but not all of the issues raised during the preliminary conference.

DISCUSSION

Our primary objectives in these proceedings are to conduct an expeditious hearing, to assure the compilation of a complete record, to confirm the adequacy of public notice, to provide a meaningful opportunity for the public and all parties to be heard, and to ensure adequate time for the Siting Board's consideration of the record and its determination of the issues presented in Amendment Petition II and the Transfer Petition.<sup>24</sup> This ruling sets forth a procedural schedule for consideration of both Petitions and addresses other procedural issues to assure the efficient administration of this proceeding.

Petitioner's Expert Affidavits

Baron did not file affidavits identifying the expert witnesses on which it intends to rely, who prepared the documents and materials filed in support of the Transfer

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<sup>23</sup> On January 24, 2023, the Secretary issued a notice of availability of intervenor funding and established deadlines for submission of funding requests.

<sup>24</sup> PSL §165(5) directs that a hearing on an application to amend a certificate "shall be held in the same manner as a hearing on an application for a certificate." PSL §167 sets forth the manner in which a hearing should be conducted.

Petition and Amendment Petition II, including Exhibit A and the various appendices, drawings, figures, assessments, plans, reports submitted in support. Baron is hereby directed to file and serve such affidavits identifying the expert witnesses who prepared the documents and materials supporting Amendment Petition II and the Transfer Petition, along with the curriculum vitae of each witness **by no later than March 3, 2023**.

Limited Service List

Many of those persons and entities listed on the service list that was established for Baron's initial application for a Certificate in this proceeding may no longer have an interest in the issues associated with Amendment Petition II or the Transfer Petition. Following the January 17, 2023 preliminary conference, the participants provided the names and email addresses of their respective representatives who should be included in a Limited Service List for purposes of receiving email service of all filings and communications related to Amendment Petition II. The Limited Service List was thereafter circulated to the participants, but has since been revised to include representatives of the Towns of Cohocton and Wayland, insofar as Amendment Petition II and Phase II of the Project includes collection lines and other components located in those Towns.

The revised Limited Service List is attached to this ruling as Exhibit A and defines those persons who should be served directly via email with all filings in matters associated with Amendment Petition II and the Transfer Petition. As discussed in the January 17, 2023 preliminary conference, prior to submission of any filing to the Secretary for inclusion in the Department of Public Service Document and Matter Management (DMM) system, those persons on the Limited Service List shall be first served by email, as required by 16 NYCRR §3.5(e).

Notably, the Limited Service List does not change or affect the official DMM service list for this proceeding and those persons and entities will continue to receive electronic notification of all DMM filings.

This ruling and the Limited Service List makes no determination on the party status of any person or entity. To the extent necessary, the issue of party status will be addressed in a separate ruling. This ruling directs those seeking party status in this aspect of the proceeding, other than those who are parties to the proceeding as of right, to request party status immediately in writing by email to the ALJ and the Secretary by utilizing the Request for Party Status form available on the Department of Public Service website.

#### Timely Discovery Responses and Objections

In order to assure an expeditious hearing and the compilation of a complete record with respect to Amendment Petition II and Transfer Petition, strict compliance with the Department's discovery rules in 16 NYCRR Part 5 is required. The ALJ will oversee any discovery disputes. Discovery requests and responses or objections shall be served on all parties for the purpose of avoiding unnecessary duplication.

Any party served with discovery seeking relevant and material information, or seeking information likely to lead to relevant and material information, must provide a response in writing **within 10-days of service** of the discovery request. The response shall contain either detailed and accurate response(s) with supporting documentation (if applicable), or must include objection(s) to the discovery request and shall specify the basis for the objection(s).<sup>25</sup> All discovery responses or objections shall be signed by the person or persons preparing

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<sup>25</sup> 16 NYCRR §5.3(c).

same, with each signatory's name printed below the signature line.

The responding party shall serve any objection(s) to discovery along with the discovery request on the ALJ, whereupon the ALJ may conduct a conference with the parties for purposes of resolving the objection(s) or may immediately issue an informal ruling on the objection(s) without conducting a conference. If objection(s) to discovery are not asserted within ten days of service, such objection(s) may be deemed waived.

#### Discovery Disputes

In the event of any party's failure to respond, or to sufficiently respond, to any discovery request(s) within 10 days, the requesting party shall, in the first instance, notify the responding party in writing of such failure and request a response within three business days. The requesting party shall copy the ALJ on the request for a response. The responding party shall provide a written response to the discovery request within three business days of such notification and shall also submit the response to the ALJ.

If the responding party fails to timely respond or fails to timely provide a complete and sufficient response to any discovery request(s) within three business days, the requesting party may seek the ALJ's resolution of the dispute. The request to the ALJ to resolve the dispute shall be in writing and shall include the discovery request(s) and any response(s), and shall identify the basis for the requesting party's position regarding the dispute, including the basis for asserting that a response is not complete or is not sufficient. Within one business day, the responding party shall provide the ALJ with its position regarding the dispute. The ALJ may conduct a conference with the parties in an effort to resolve

the dispute or may issue a ruling resolving the dispute without conducting such a conference.

Any party's failure to timely respond to relevant and material discovery requests with sufficient specificity and supporting documentation will result in an adverse inference against that party in the consideration of the issues presented in Amendment Petition II.

Procedural Schedule

The following procedural schedule is hereby established with respect to Amendment Petition II and the Transfer Petition:

<b>Baron Expert Affidavits</b>	<b>Friday, March 3, 2023</b>
<b>Direct Testimony</b>	<b>Friday, March 24, 2023</b>
<b>Rebuttal Testimony</b>	<b>Friday, April 21, 2023</b>
<b>Statements of Contested Issues<sup>26</sup></b>	<b>Friday, April 28, 2023</b>
<b>Pre-Hearing Status Conference</b>	<b>Wednesday, May 3, 2023</b>
<b>Pre-Hearing Submissions<sup>27</sup></b>	<b>Wednesday, May 10, 2023</b>
<b>Evidentiary Hearing<sup>28</sup></b>	<b>Monday, May 15, 2023</b>
<b>Post Hearing Initial Briefs<sup>29</sup></b>	<b>Friday, June 9, 2023</b>
<b>Post Hearing Reply Briefs</b>	<b>Friday, June 30, 2023</b>

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<sup>26</sup> Parties' Statements of Contested Issues shall include references, with appropriate citations, to supporting testimony, exhibits and/or other evidence related to the contested issue.

<sup>27</sup> Pre-hearing submissions shall include the following: Consensus Exhibit List in Excel format, Consensus Witness List/Witness Sequence at the hearing, Identification of Issues/Areas for Cross-Examination by each party intending to conduct cross-examination.

<sup>28</sup> The evidentiary hearing location and starting time will be set forth in a separate notice issued by the Secretary.

<sup>29</sup> The dates for submission of post-hearing briefs is subject to change depending on the duration of the evidentiary hearing and the extent of the issues subject to adjudication.

The parties must serve the foregoing on each party to Amendment Petition II and on the ALJ by email, and must file same with the Secretary, **by no later than 4:30 P.M.** on the deadline established in this ruling.

Adjournment of the Procedural Schedule

Nothing in this ruling is intended to preclude any party from requesting an adjournment to the commencement of the evidentiary hearing and the subsequent dates for post-hearing submissions, but any such motion must be in writing, on notice to all parties, and shall be made only after the filing of all testimony. Such a request shall be in the form of a motion, shall set forth good cause and the justification to delay the evidentiary hearing, and shall propose a date for commencement of the evidentiary hearing or for the submission of a final settlement agreement and a proposed hearing date for such settlement agreement. The motion also shall identify the parties who oppose the requested delay and the parties that support (or do not oppose) the requested delay. If the adjournment request is denied, the schedule established in this ruling will remain in effect.

Applicability of Rule 3.9 Settlement Procedures

To the extent that any party seeks to initiate discussions to resolve or otherwise settle any aspect of Amendment Petition II or the Transfer Petition, a notice of an impending settlement negotiations shall be filed and served on all parties on the Limited Service List in compliance with 16 NYCRR §3.9(a) and on the ALJ and the Secretary. All parties shall be entitled to participate in settlement negotiations and shall be provided reasonable notice of the dates, times, and locations of any settlement meetings (virtual or in-person). Consistent with 16 NYCRR §3.9(d), the content of discussions during settlement negotiations shall be kept confidential.



Applicability of Protective Order

On April 3, 2018, a Ruling Adopting Protective Order was issued in this proceeding. This ruling incorporates and continues the terms and conditions of that Ruling and the underlying Protective Order. All parties are directed to review the terms and conditions in the Protective Order. Any party or party representative, who seeks to receive confidential information in this proceeding must submit an Acknowledgment of the Protective Order, which shall be the form attached to the Protective Order (Attachments A - C), and shall be served by email on all parties and the ALJ, and filed with the Secretary **by no later than March 15, 2023**. Any party who previously executed an Acknowledgment shall execute an updated Acknowledgment, which shall be served on all parties and the ALJ by email and filed with the Secretary.

Filing of Confidential Information

Consistent with the protocols set forth in the Protective Order, the filing of any information claimed to be confidential shall be served by email on the ALJ and on all parties signing the Protective Order Acknowledgment in redacted and unredacted form. Information claimed to be confidential shall also be filed with the Secretary in redacted and unredacted form, with instructions to lock the unredacted, confidential version.

(SIGNED)

MAUREEN F. LEARY

**EXHIBIT A**

**BARON WINDS; 15-F-0122  
LIMITED EMAIL SERVICE LIST FOR  
AMENDMENT PETITION II AND TRANSFER PETITION**

**BARON WINDS; 15-F-0122**  
**LIMITED LIST FOR EMAIL SERVICE DURING CONSIDERATION OF**  
**AMENDMENT PETITION II AND TRANSFER PETITION**

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