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Corresp.

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March 22, 2007

VIA HAND DELIVERY

Hon. Jaclyn Brilling, Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: ***Case 07-E-0138 Petition of Canandaigua Power Partners, LLC for an Order Granting a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law, Approving Financing Pursuant to Section 69 of the Public Service Law and Approving a Lightened Regulatory Regime***

Dear Secretary Brilling:

Enclosed please find an Original and five copies of the Response of Canandaigua Power Partners, LLC to Comments on Petition.

Copies of the Response have been served via First Class mail on all parties on the attached service list.

Very truly yours,

Ruth E. Leistensnider

/rel
enclosures
cc: All parties on the attached service list
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Canandaigua Power Partners LLC

Case No. 07-E-0138
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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

PETITION OF CANANDAIGUA POWER PARTNERS, LLC FOR AN ORDER GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO SECTION 68 OF THE PUBLIC SERVICE LAW, APPROVING FINANCING PURSUANT TO SECTION 69 OF THE PUBLIC SERVICE LAW AND APPROVING A LIGHTENED REGULATORY REGIME	**CASE 07-E-0138**

RESPONSE OF CANANDAIGUA POWER PARTNERS, LLC TO COMMENTS ON PETITION

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Dated: March 22, 2007

STATE OF NEW YORK
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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

PETITION OF CANANDAIGUA POWER PARTNERS, LLC FOR AN ORDER GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO SECTION 68 OF THE PUBLIC SERVICE LAW, APPROVING FINANCING PURSUANT TO SECTION 69 OF THE PUBLIC SERVICE LAW AND APPROVING A LIGHTENED REGULATORY REGIME	**CASE 07-E-0138**

RESPONSE OF CANANDAIGUA POWER PARTNERS, LLC TO COMMENTS ON PETITION

INTRODUCTION

On February 6, 2007, Cohocton Wind Watch ("CWW") submitted comments to the Public Service Commission (the "Commission") in opposition to the Petition of Canandaigua Power Partners, LLC ("CPP") filed with the Commission on January 25, 2007. Other comments were submitted by Frank and Kathleen Duserick, the Town of Naples and the Village of Naples, consisting mostly of generalized statements in opposition, or raising issues which will be addressed in the review of the project under the State Environmental Quality Review Act. This response is submitted on behalf of CPP and will focus, in major part, on the comments of CWW. CWW's comments are somewhat disorganized and disjointed, and it is difficult to discern how they relate to the standards for issuance of a Certificate of Public Convenience and Necessity

("CPCN"). The numerous issues raised by CWW are addressed below. None of CWW's comments, however, raise substantive issues that need be addressed in an evidentiary hearing.[1]

CPP will address below the comments offered by CWW on the following subjects: the cumulative impact of the Cohocton Project[2] with other projects in the vicinity; the responsibility for addressing public health and safety issues; the Interconnection Request submitted to the NYISO; the corporate structure and project development experience of UPC Wind Partners, LLC ("UPC Wind"); the effect of completing the manufacture of the Cohocton Project turbines on the overall process; the status of litigation regarding Town of Cohocton Local Laws 1 and 2; the status of building permit and special use permit applications; the role of the Steuben County IDA and its effect on CPP's request for approval of financing and lightened regulation; and the distribution of the benefits and burdens of wind power as contemplated by the Recommended Decision in Case 03-E-0188 the Renewable Portfolio Standard proceeding. Although every effort has been made to address the comments, CPP reserves the right to supplement and/or amplify its responses should the need arise.[3]

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1 None of the comments, other than those of the Department of Transportation, were served on CPP, and had to be obtained by CPP from the DPS File Room. CPP would ask the Commission to direct CWW, as well as all who filed comments, to ensure that any further correspondence relating to this matter is served on counsel to CPP.

2 The Cohocton Project includes a maximum of 36 wind turbines each with a generating capacity of 2.5 MW with the primary turbine array located on Pine Hill and Lent Hill northeast of the Village of Cohocton.

3 To the extent comments have been made regarding issues being addressed in the context of review of the project under the State Environmental Quality Review Act, those comments will be addressed in the response to comments contained in Final Environmental Impact Statement. Further, the vast majority of the matters raised by the Village of Naples relate to the Ecogen project, and therefore, CPP respectfully submits, have no relevance to the Cohocton project.

1. **Cumulative Impacts and**
the 115 kV Transmission Line

CWW observes that affiliates of CPP's ultimate parent, UPC Wind, are developing two other projects near the Cohocton Project (Dutch Hill[4] and WindFarm Prattsburgh[5]) and that WindFarm Prattsburgh will share an interconnection with the Ecogen Project[6] to Eelpot Road substation. CWW also asserts that the 115 kV transmission line for the Cohocton Project connecting the collection station at Lent Hill with the proposed substation on Brown Hill (which will be nine miles long) exceeds the ten-mile threshold under Article VII of the Public Service Law when combined with the 3.6 mile long transmission line for the Dutch Hill Project.

The Dutch Hill Project does not propose to construct a separate 115 kV transmission line. Unfortunately, from the description of the transmission line in the Dutch Hill DEIS, it appears that a second transmission leg 3.6 miles long was being described as part of the Dutch Hill Project. The reference in the Dutch Hill DEIS to a 3.6 mile long 115kV transmission line was in error, and will be corrected in the FEIS for the Dutch Hill Project.

There is only one 115 kV transmission line, proposed between Lent Hill and Brown Hill. Both Dutch Hill and Cohocton will have collection lines between their turbines and the collection station at Lent Hill. The collection lines will operate at a voltage of 34.5 kV which will be transformed to 115 kV at the collection station and then transmitted to the Brown Hill substation. The 115 kV line between the Lent Hill collection station and the Brown Hill substation will be approximately nine miles in length. Because there is only one 115 KV

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4 The Dutch Hill Project, as proposed, will consist of 16 wind turbines, each with a capacity of 2.5 MW, located on Dutch Hill in the Town of Cohocton.

5 The WindFarm Prattsburgh Project, as proposed, is a 75 MW project, located in the Towns of Prattsburgh and Italy.

6 The Ecogen Project, as proposed, is a 79.5 MW project, located in the Towns of Prattsburgh and Italy.

transmission line approximately nine miles long, an Article VII certificate is not required under Public Service Law Sections 120 and 121.

CWW also argues that the Cohocton Project, the Dutch Hill Project, the WindFarm Prattsburgh Project, and the Ecogen Project are either located on "contiguous or adjacent" properties, share an interconnection at Eelpot Road, have overlapping staging areas and operations and maintenance facilities, "along with incongruencies and redundancies," or require output limitations to the grid to avoid potential overloading. CWW's position appears to be that the environmental impact of the Cohocton Project cannot be reviewed independently of the other three projects and must be reviewed cumulatively taking into account the impacts of the other projects.

Section 8.0 of the SDEIS addresses the cumulative impacts of these four projects. Cumulative impact analysis is generally required where projects "external" to the proposed project have been specifically identified and either are part of a single plan or program, or there is a sufficient nexus of common or interactive impacts to warrant assessing such impacts together. Because the Ecogen Project has been the subject of a Final Generic EIS issued by the Steuben County IDA, the WindFarm Prattsburgh Project released a DEIS on June 22, 2006 and the Dutch Hill Project is being proposed by an affiliate of CPP, CPP was able to prepare a detailed cumulative impact analysis of the four projects.

The Ecogen and WindFarm Prattsburgh Projects are proposed to be constructed in close proximity to each other, but 1.75 miles northeast of the Cohocton Project. The separation of the two Prattsburgh projects from the Cohocton Project results in no cumulative construction or operational impacts. Cumulative visual and avian impacts are described in the SDEIS (Section 8.0). To further address concerns regarding the potential cumulative visual impact of these

projects, a cumulative viewshed analysis of the Cohocton, WindFarm Prattsburgh and Ecogen Projects was prepared. The results of that analysis are described in the SDEIS. *Id.*

We note that the Final Generic EIS prepared for the Ecogen Project analyzed the cumulative impacts that could arise between it and the WindFarm Prattsburgh Project.

With respect to the Dutch Hill Project, Canandaigua Power Partners II, LLC ("CPP II"), an affiliate of Canandaigua Power Partners, has filed an interconnection request with the NYISO and an application with the Town of Cohocton. The Dutch Hill Project is proposed to consist of 16 2.5 MW turbines located on Dutch Hill in the Town of Cohocton. The Dutch Hill Project is located directly west of the Cohocton Project and its site is approximately 1.6 miles from the nearest turbine included in the Cohocton Project. Due to the distance between the Dutch Hill and Cohocton sites, cumulative noise and shadow flicker impacts are not anticipated. However, based on the proposed number and location of the Dutch Hill turbines, cumulative traffic, avian, visual and economic impacts were determined to be likely. These cumulative impacts were considered in great detail in the SDEIS (pp. 114-119 and Appendices F and K).

CWW also mentions the fact that WindFarm Prattsburgh and the Ecogen Project will share the Eelpot Road substation, that the NYISO interconnection process may have to deal with potential overloading of the two transmission lines connecting to that substation and that wind conditions may affect the benefits proposed by these two projects. First, the Cohocton Project will not be connected to the Eelpot Road substation, and therefore, this assertion does not relate to the Cohocton Project. Moreover, these issues are interconnection or reliability issues that are the responsibility of the NYISO. The NYISO's System Reliability Impact Studies are designed specifically to identify system improvements that will avoid the potential overloading of transmission lines.

Cumulative impacts among the four referenced projects have, therefore, been considered to the full extent required under applicable law.

2. **Public Health and Safety**

CWW seeks clarification regarding which state agency is responsible for promulgating rules and regulations with respect to matters affecting public health and safety for alternative energy projects proposed after the "Energy Council" dissolved in 1995.

Before addressing CWW's concern about the dissolution of the State Energy Office in 1995, CPP notes that public health and safety issues are addressed in detail in the DEIS and SDEIS. CWW is not asserting that any particular public health and safety issues have not been addressed by CPP, only that jurisdiction over public health and safety issues does not reside in a single agency.

Public safety concerns associated with the construction and operation of a wind power project include ice shedding, tower collapse, blade throw, stray voltage, lighting strikes, electromagnetic fields and fire. These safety concerns are fully described in the DEIS (Section 3.10). Additional information on ice shedding was included in the SDEIS (Section 3.10.2.2.1) as well as a discussion on health effects (shadow flicker and low frequency noise) (Section 3.10.2.2.7.)

It is clear that public health and safety matters are being fully considered in the SEQR process as a result of their having been addressed in the DEIS and SDEIS. Although there is no single state agency responsible for implementing public health and safety regulations governing the construction and operation of wind power projects, several different agencies have responsibilities concerning public health and safety issues as they may pertain to wind power projects. For example, the Public Service Commission has implemented regulations establishing

standards relating to electric and magnetic fields. Electric field strength standards were established in Opinion No. 78-13, issued June 19, 1978, and magnetic field strength standards were established in the Commission's Interim Policy Statement on Magnetic Fields issued September 11, 1990. With respect to stray voltage, the Commission typically imposes a requirement on wind developers to conduct tests for stray voltage on all publicly accessible electric facilities in accordance with Case 04-M-0159, *Safety of Electric Transmission and Distribution Systems*, Order Instituting Safety Standards (issued January 5, 2005) and Order on Petitions for Rehearing and Waiver (issued July 21, 2005). *See, e.g.,* Case 05-E-1633, *Noble Ellenburg Windpark, LLC,* Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued November 9, 2006), p. 15. The Commission also typically imposes numerous requirements related to compliance with applicable electric industry codes and standards, including facility security and public safety, emergency response plans, bulk power system protection, system reliability measures, consultation with system planning and system protection engineers and safety personnel on testing and energizing equipment, and Good Utility Practices. *See, e.g.,* Case 06-E-0135, *Noble Bliss Windpark, LLC.,* Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued November 9, 2006), pp. 16-22.

With respect to ice shedding, the Town of Cohocton Windmill Local Law imposes setback requirements and requires the use of control technologies to reduce the potential risk of ice throw events. With respect to sound, the Town's Windmill Local Law includes directly applicable noise criteria, and a mechanism for enforcing compliance with them. It also requires that the DEC's Program Policy Assessing and Mitigating Noise Impacts (NYSDEC, 2001) be applied in analyzing project noise.

Since the State Energy Office was discontinued in 1995, the state legislature has not enacted any laws that would make comprehensive public health and safety regulations the responsibility of a single state agency. The lack of a single state agency with such overarching jurisdiction is, however, of no import because public health and safety will be protected by the numerous other agencies that have jurisdiction and because CPP has addressed public health and safety issues in accordance with the applicable policies and regulations promulgated by those agencies.

3. **The NYISO Interconnection Study Request and Section 68 Application**

CWW asks that the Commission clarify the disparity between the size of the facility for which the Section 68 Certificate is sought, 90 MW, and the NYISO Interconnection Request (currently 82.5 MW).

There is no requirement that the size of the facility certificated by the Commission match the size of the facility for which an Interconnection Request is initiated with the NYISO. The NYISO and the Commission have procedures in place for modifying Interconnection Requests or amending a Section 68 Certificate, respectively.

Attachment X to the NYISO's Open Access Transmission Tariff ("OATT") sets forth the way in which a developer of a generating facility submits an Interconnection Request to the NYISO and the way in which the NYISO processes that request.

A developer may submit more than one request for a single site or project; for example, one site or project could be evaluated at two different voltage levels. NYISO OATT Attachment X, Section 3. In addition, a developer may submit to the NYISO modifications to any information provided in the Interconnection Request, including increases in plant output. *Id.*,

Section 4.4.1. Incremental increases in plant output go to the end of the queue for purposes of study analysis. *Id.*

The developer may request that the NYISO evaluate whether a modification in an Interconnection Request would constitute a Material Modification (as defined in the NYISO OATT). If it is determined by the NYISO to be a Material Modification, then the developer may withdraw the proposed modification or proceed with a new Interconnection Request for such modification. *Id.,* Section 4.4.3.

After the submission of an Interconnection Request, the NYISO prepares an Interconnection Feasibility Study and discusses the results with the developer and the Transmission Owner. *Id.,* Section 6.3.1. A System Reliability Impact Study is then conducted in accordance with the Applicable Reliability Standards (as defined in the NYISO OATT). The developer may request that the NYISO perform a reasonable number of optional studies using different assumptions specified by the developer. *Id.,* Section 10.1.

None of these procedures are directly tied to the capacity of the facility for which a Section 68 Certificate is sought. It is the developer's responsibility to submit an approved Interconnection Request, have the NYISO perform the System Reliability Impact Study (including optional studies if necessary), agree to pay for such system improvement and attachment costs as are attributable to the project, and negotiate an Interconnection Agreement. The NYISO process progresses independently of the Section 68 certification process, and it allows the developer to modify the Interconnection Request or System Reliability Impact Study should it become necessary.

Here, CPP's ultimate parent, UPC Wind, has a pending interconnection request for 79 MW for the "Canandaigua Wind Farm" (queue position 135) which was subsequently allowed to

increase to 82.5 MW because it was not considered a Material Change, and another pending request for 42 MW for the "Canandaigua II" project (queue position 199). Those requests were made in 2003 and 2005, respectively, long before either the Cohocton Project or the Dutch Hill Project were defined for permitting purposes. They were properly submitted, and are being reviewed, pursuant to the NYISO's procedures. The sizing of the requests was determined based upon the NYISO's interconnection rules, and before project layouts could be fully defined based upon either the content of the Town of Cohocton's local laws (which had not yet been adopted) or landowner consents and preferences (which had not yet been fully obtained).

In defining the projects to be reviewed pursuant to the State Environmental Quality Review Act ("SEQR") and in its various permit applications, it became clear to UPC Wind that both the Town's now enacted local laws (which establish stringent setback requirements that significantly affect turbine layout) and the availability of land from willing landowners would materially impact the project layouts. As it addressed those siting constraints (which arose after the interconnection requests had been filed), UPC determined that only 16 turbines could be sited in the Dutch Hill area, and that 32 turbines could be sited in the Lent Hill/Brown Hill area. As a result, UPC Wind defined the projects for SEQR and permitting purposes based upon those natural geographic groupings. All of the Dutch Hill turbines were grouped together as the Dutch Hill Project. All of those turbines will be owned and operated by CPP II. All of the Lent Hill/Brown Hill turbines were grouped together into the Cohocton Project. All of those turbines will be owned and operated by the Petitioner, CPP.

UPC Wind has been consistent in utilizing those project definitions for permitting and SEQR purposes. There is no need to clarify those definitions with respect to this Petition because there is no requirement that the proposed size of CPP's interconnection request be

identical to the proposed size of its project. Here, the additional generating capacity of the Cohocton Project beyond the 82.5 MW to be authorized for the "Canandaigua Wind Farm" in queue position 135 will receive its interconnection approval under the "Canandaigua II" request that has queue position 199. The capacity of the 115 kV transmission line running between the Lent Hill collection station and the Brown Hill substation will be sufficient to accommodate the combined output of the Cohocton Project and the Dutch Hill Project. Further, both the Cohocton Project, and the Dutch Hill Project will be fully reviewed under SEQR in their current configurations.

4. **Structure of UPC/Canandaigua Power Partners**

CWW attempts to confuse the Commission regarding the identity of the applicant by raising questions regarding the corporate structure of CPP, its parents' and affiliates' authorization to do business in New York, its investors, and its qualifications to operate the proposed project. These attempts to confuse the Commission should be rejected, and in any event, are simply without basis.

The verified Petition very clearly states that the applicant for the Certificate of Public Convenience and Necessity is CPP, a wholly-owned subsidiary of UPC New York Wind, LLC, which in turn is a wholly-owned subsidiary of UPC Wind Partners, LLC ("UPC Wind").[7] UPC Wind was formed by principals of UPC Group ("UPC"), based in Europe. UPC Wind Management, LLC, which is responsible for the development, construction and operation of UPC Wind's projects, is also a wholly owned subsidiary of UPC Wind. As noted in the petition, UPC Wind's subsidiaries have one wind project in commercial operation in Maui, Hawaii (30

[7] It is respectfully submitted that which corporate affiliates of CPP are authorized to do business in which states, and when such entities become authorized to do business is not relevant to the Commission's analysis. CPP is authorized to do business in New York State, as demonstrated by CWW's own papers. *See* Exhibit G1 to CCW's comments.

MW), two wind projects in late-stage construction, one in Mars Hill, Maine (42 MW) and the second in Lackawanna, New York (20 MW), and numerous North American wind projects in development including Sheffield, Vermont (35-45 MW), Prattsburgh, New York (75 MW), and Milford, Utah (200 MW). The principals and employees of UPC Wind, collectively, have over 200 years of experience in the wind industry. In addition, European affiliates of UPC Wind have developed, constructed, and financed two large wind projects in Europe: a 169.2 MW wind energy project in the regions of Campania and Puglia, Italy, as well as a 283.1 MW wind energy project in Italy. This corporate experience in wind development and operation compares more than favorably to the corporate experience of Noble Environmental Power, LLC, whose subsidiaries were recently granted four CPCNs by the Commission.[8]

CWW also raises, in the context of UPC's corporate structure, concerns regarding the Mars Hill project in Maine allegedly not being constructed in accordance with purported setback recommendations from General Electric ("GE"). Although CWW has not provided the document it references, it is attached hereto as Exhibit A. CWW does not state how this relates to the Cohocton Project, or the standards for issuance of a CPCN. Nonetheless, CPP provides the following response.

As set forth in the attached Exhibit A, GE recommends that in the absence of a site-specific risk assessment, the Wind Energy Production in Cold Climate setback of 1.5 times the turbine height be used as a guideline to mitigate risk of ice shedding and ice throw. However, the document goes on to state that "actual distance is dependant upon turbine dimensions,

8 *See* Case 05-E-1634, *Noble Clinton Windpark I, LLC,* Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued October 19, 2006); Case 05-E-1633, *Noble Ellenburg Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued November 9, 2006); Case 06-E-0135, *Noble Bliss Windpark, LLC,* Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued November 9, 2006) and Case 06-E-0216, *Noble Altona Windpark, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued November 9, 2006).

rotational speed and many other potential factors." For the Mars Hill project, UPC Wind worked closely with GE in developing the project, and GE performed a site suitability analysis and concluded that the turbine was suitable for the site climatic conditions and turbine layout presented by UPC Wind and its consultants.. In addition, GE has been involved throughout the project in financing, construction, and operations to date. UPC Wind's operational standards are conducted in accordance with the white paper, issued by GE in April 2006.

For the Cohocton project, CPP is utilizing a Clipper turbine, not a GE turbine. Clipper has not provided any recommended setbacks. Therefore, CPPis following best practices, studying the icing potential of the site, and will take implement risk mitigation measures such as posting signs or curtailing operation if there are unusually high icing conditions. Section 3.10.2.2.1 of the SDEIS for the Cohocton Project, as well as Exhibit M to the SDEIS exhaustively analyzed the risk of ice shedding and ice throw, and concluded that for a moderate ice location such as Cohocton, the maximum achievable distance for ice to be thrown was approximately 1,150 feet. The SDEIS further concluded that if a person were always present in the proximity of the turbine during icing conditions, *and* there is no control method incorporated into the wind turbine to prevent ice throw, that the risk of being struck by an ice fragment was estimated to be approximately one in 1 million, or less than the risk of a person being struck by lightning. *See* SDEIS, p. 90, and Exhibit M.

The Town of Cohocton's local law requires setbacks of 1,500 feet from residences, and a setback of the overall height of the turbine plus one hundred feet (which translates to 520 feet for the Cohocton project) from public rights of way and property boundaries. In addition, the Town's local law prohibits wind turbines which lack an automatic shutdown feature in the event of blade icing. *See* Exhibit C, p. 15. The Clipper turbines have an automatic shutdown feature,

(SDEIS, Exhibit A) and the Cohocton Project meets the Town's setback requirements. Therefore, CWW's concerns in this regard are completely misplaced.

In sum, as demonstrated above, UPC Wind and its special purpose subsidiary have ample experience developing, constructing, owning and operating wind power projects, and are fully qualified to provide safe and reliable service.

5. **Manufacturing Status of Clipper Liberty Turbines**

CWW makes multiple arguments regarding the manufacturing status of the Clipper Liberty turbines (that they have not been manufactured yet), that the SDEIS refers to different turbines, and that UPC's Steel Winds project, supposed to be in operation by November 2006, has been stalled, perhaps because the turbines are not in production, and that the time frame for the project does not agree with the delivery of the Clipper turbines, all in support of its argument against the issuance of the CPCN. Although it is unclear from the Petition how this issue relates to the standards for issuance of a CPCN, once again, CWW's allegations are in error.

First, with respect to Steel Winds, the turbines were originally proposed to be erected in November 2006, as CWW notes. However, the delay had nothing to do with manufacture of the Clipper turbines. Rather, the delay arose primarily because lake effect snow, and strong winds at the site, some as high as 75 MPH, caused erection of the turbines to become dangerous. As a result, construction was delayed until the weather improved to allow for safe construction of the turbines. Erection of the first turbine was completed on February 19th, and the remaining turbines are in the process of being erected. An article in the *Buffalo News* on February 21, 2007 explaining some of the circumstances surrounding the delay is attached hereto as Exhibit B.

With respect to the production schedule of the Clipper Turbine, CWW's comments in this regard are puzzling. The press release attached as Exhibit A1 to CWW's comments states that

the contract was for a supply of turbines in 2007, for projects UPC Wind plans to develop in the northeastern US during 2007. CWW is simply wrong in its speculation that production has not commenced on the turbines, but in any event, this assertion does not relate to the standards for issuance of a CPCN.

Finally, regarding what kind of turbine was subject to review in the Supplemental Draft Environmental Impact Statement, CWW does not make a specific reference to the location in the SDEIS where it is indicated that the analyses are based on turbines *other* than the planned Clipper Liberty 2.5 MW turbine. All of the analyses in the SDEIS were based upon the Clipper Liberty 2.5 MW turbine. Moreover, to the extent changes and/or refinements are made to turbine locations and/or the evaluation of the impacts from the Cohocton Project, the FEIS will address any such changes.

6. **Litigation Regarding the Town's Local Laws**

CWW maintains that the existence of litigation regarding the Town's local windmill law(s) should somehow impact upon the Commission's decision on CPP's application for a CPCN. These claims are factually inaccurate, and in any event, have no bearing on the Commission's decision whether to issue a CPCN.

Specifically, the Town's first windmill law, Local Law #1 of 2006 is *not* currently the subject of litigation. Members of CWW commenced an Article 78 proceeding against the Town challenging Local Law #1 of 2006. This proceeding was dismissed and no appeal was taken from that dismissal. The Town determined to change its windmill law through adoption of Local Law #2 of 2006, adopted November 21, 2006, primarily to address changes to the allowable uses in the zoning districts. A copy of Local Law #2 is attached hereto as Exhibit C. Members of CWW also commenced an Article 78 proceeding against the Town challenging Local Law #2 of

2006, which is currently pending. However, Local Law #1 was never repealed, and Local Law #2 provides only that it supersedes "inconsistent provisions" of prior local laws and ordinances. Thus, even if Local Law #2 of 2006 is invalidated, Local Law #1 will revert to effectiveness, and would govern CPP's application. A copy of Local Law #1 is attached hereto as Exhibit D. Therefore, the existence of litigation regarding Local Law #2 has no bearing on CPP's CPCN application.

7. **Building Permit and Special Use Permit Applications**

When Global Winds and UPC Wind first proposed the Cohocton Project[9] and needed to obtain meteorological data in the area by erecting meteorological towers, there was initially some confusion as to what was required by the Town to erect temporary meteorological towers. However, this issue was resolved, and by letter dated December 15, 2003, the Code Enforcement Officer for the Town of Cohocton advised Global Winds that the Planning Board approved the applications for special use permits for the Wolcott, Meyers and Schwingel meteorological towers at its meeting of December 11, 2003, for a period of 36 months (3 years). Attached as Exhibit D is a copy of that letter.

UPC Wind subsequently purchased Global Winds' 49% interest in the project in early 2004. CPP removed the Meyers meteorological tower in 2006, and reconstructed it on property owned by Joseph Dyckman. When CPP was informed by the Town that a permit was needed to authorize reconstruction of the meteorological tower on the Dyckman property, as evidenced by CWW's own exhibits (Exhibit N), CPP immediately apologized, and submitted the required special use permit application. Thereafter, the Planning Board approved renewals of the special

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[9] The Cohocton Project was originally a joint venture between Global Winds and UPC Wind, with Chris Swartley leading the development on behalf of Global Winds. Chris Swartley became an employee of UPC Wind around the time that UPC Wind purchased Global Winds' interest in the project. *See* Exhibit H3, Cohocton Wind Watch comments.

use permit applications and the special use permit for the Dyckman meteorological tower, and on January 8, 2007, the Town's Code Enforcement Officer issued building permits for the meteorological towers. Attached hereto as Exhibit E is a copy of the building permits issued for the Wolcott and Schwingel renewals, as well as the new Dyckman meteorological tower. Contrary to CWW's allegations contained in Exhibit O, and as expressly set forth in the building permits, each of these meteorological towers meets the required setbacks.

In sum, CPP has worked out, to the Town's satisfaction the building permit issues associated with the meteorological towers, as evidenced by the Town's issuance of new building permits in January of this year. Therefore, any claims by CWW that CPP has blithely violated the law have no merit.

CWW also argues that there is no application before the Town of Cohocton for the Project, and that therefore, the CPCN is premature. Once again, CWW is in error, and in any event, this argument is irrelevant for purposes of the CPCN application. The preliminary building permit application submitted by CPP, together with a completed Environmental Assessment Form and a check in the sum of $10.00, was submitted to the Town by letter dated December 19, 2005, in order to commence review of the project under the State Environmental Quality Review Act ("SEQR"). By letter dated March 1, 2006, CPP submitted a special use permit application to the Town, as required under Local Law #2 of 2006. Therefore, this issue is moot.

8. **Lightened Regulation, Financing of the Project and the Steuben County IDA**

CWW argues that CPP's request for lightened regulation and for financing approval, including the flexibility to enter into a sale/leaseback agreement with the Steuben County IDA without further Commission approval, are "both premature and questionable at best."

As to the claim of prematurity, CWW asserts that the Cohocton Planning Board has not completed the FEIS for the Cohocton Project. This assertion is true. However, CPP is not requesting Commission action prior to the issuance of an FEIS. The Commission must await an FEIS before it can issue its own Findings Statement in accordance with SEQR. 6 NYCRR §617.11(c); *see, e.g.,* Case 06-E-0135, *Noble Bliss Windpark, LLC*, Findings Statement (issued November 10, 2006). Therefore, Commission action cannot be taken on CPP's Section 68 application until after the FEIS is issued.

With regard to the use of a sale/leaseback arrangement with the Steuben County IDA, it is not unusual for entities engaged exclusively in wholesale generation to request and receive Commission approval in advance to finance a project using IDA financing. *See, e.g.*, Case 03-E-1581, *Calpine Eastern Corporation*, Order Approving Financing (issued September 1, 2004). In the *Calpine* Order, the Commission noted that in the case of competitive wholesale providers of electricity, the scrutiny applicable to monopoly utilities under Public Service Law § 69 may be reduced and, as a result, it need not make an in-depth analysis of the financing plans described in the petition. The Commission, in reliance on the representations made in the petition, is, therefore, able to take prompt action, "avoiding constraints to financing flexibility that might hinder the development of the competitive market for electricity." *Calpine* Order, at 3. The Commission granted Calpine its request for "flexibility to change (without our prior approval) financing entities, payment terms, and the amount financed . . . consistent with our past decisions." *Id.,* at 4.

CWW states that the Steuben County IDA has certain powers (*e.g.,* eminent domain) "that have not been formally disclosed and leave the public captive." CWW further states that

"(t)he IDA's guidance as to funding is changing and the funding itself, PILOT or Empire Zone, is in a state of flux . . ." and that "(t)he final financial package has not been identified."

Exactly how the IDA chooses to assist in the development of the Cohocton Project is within the discretion of the IDA and is subject to procedures requiring public notice and comment. How or whether the IDA participates in the financing is not the subject of Commission review and should not be of concern to the Commission given the flexibility that the Commission has provided in its many orders approving financing for competitive wholesale providers of electricity.

CWW asserts that "it is not clear who is the final electric corporation requesting the Certificate since . . . all of the projects in the area will be financially transferred to an agency (SCIDA) with the power of Eminent Domain." CPP is the petitioner and will remain so even if the IDA takes title to the facility for purposes of financing. In a sale-leaseback arrangement where, for financing purposes, an IDA takes title to electric generating facilities, but plays a passive role only and does not acquire any authority to manage the facility, or exercise any control over its operations, the IDA does not become an "electric corporation," and the Commission does not require approval for the transfer of a controlling interest in electric generating facilities under Public Service Law § 70, *See, e.g.,* Case 06-E-0745, *AES Greenidge LLC,* Order on Regulation of a PILOT and Sale-Leaseback Transaction (issued September 29, 2006).[10]

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[10] Other commenters have raised concerns about eminent domain. The comments of Frank and Kathleen Duserick dated February 7, 2007 state that they are fearful about "the threat of eminent domain that is a key aspect" of CPP's Section 68 application. CPP has not sought, and does not intend to seek, the power to exercise eminent domain authority in order to construct the Cohocton Project. There is nothing in CPP's Section 68 application that suggests otherwise.

Therefore, the possibility that an IDA will take title to a generating facility, as part of a financing arrangement, does not render an application by the project developer under Sections 68 and 69 of the Public Service Law incapable of being acted upon. Moreover, the entity that is and will remain subject to the lightened regulatory regime is the entity that manages and operates the facility, which in this case is CPP, the entity seeking Section 68 approval.

9. **The RPS Proceeding**

CWW cites Judge Stein's Recommended Decision ("RD") in Case 03-E-0188 - Proceeding on Motion of the Commission Regarding a Renewable Portfolio Standard (issued June 3, 2004) for the proposition that the RPS program should result in "a fair distribution of the burdens and benefits" among New Yorkers (RD, at 99-100). CWW also cites Judge Stein's recommendation that the Commission monitor the results of the RPS program and review its rules in the year 2008 in order to ensure flexibility and adapt the program to changing market conditions and new technologies. *Id.*

CWW apparently believes that Western New York in general, and Steuben County and the Finger Lakes Region in particular, have not received a fair distribution of the burdens and benefits of the RPS program. CWW, therefore, asks that the Commission "reexamine the RPS portfolio, now, instead of 2008."[11] In addition, CWW asks whether the placement of four to five windfarm projects "in the Finger Lakes on a congested grid where production has to be pared down" is a good economic decision.

The Commission issued its Order Regarding Retail Renewable Portfolio Standard on September 24, 2004 ("RPS Order"). The Commission noted in its conclusion (p. 82) that the recommendations in the RD "are adopted only to the extent set forth herein." Although the

[11] Judge Stein recommended reexamination of the RPS portfolio in 2008, but the Commission decided that 2009 would be more appropriate.

Commission did not specifically endorse Judge Stein's language regarding a fair distribution of the burdens and benefits, the Commission did, however, decide to review certain aspects of the RPS program in 2009 (RPS Order, at 7), including, *inter alia*, costs and benefits associated with the program. In support of postponing its review until 2009, the Commission cited "the need for certainty as well as flexibility." *Id.*

The RPS program does not contemplate the uniform distribution of wind projects across the state. The Commission in its September 24, 2004 Order and Judge Stein in the RD, both made explicit reference to the February 2004 Phase I Report entitled "The Effects of Integrating Wind Power on Transmission System Planning, Reliability, and Operations" prepared by G.E. Power Systems Energy Consulting for NYSERDA (RPS Order, at 67; RD, at 82-83.) The Phase I Report noted that the bulk (85%) of additional wind capacity is projected to be sited west of the Central East interface. In that Report, the geographical distribution of 101 potential wind sites indicated that Zone A, the westernmost part of the state, contained potential wind generation of 4,016 MW out of a total of 10,026 MW, far surpassing any of the other New York Control Area Load Zones. It is clear that, at the time it adopted the RPS program, the Commission was fully aware of the fact that new wind generation would be much more prevalent in the western part of the state. Therefore, a greater concentration of wind resources in the western part of the state, Steuben County or the Finger Lakes Region, is not a sufficient basis for the Commission to accelerate its planned 2009 review of the RPS program to 2007. In any event, such a review, if warranted, should be conducted independently of a Section 68 certificate proceeding for one particular wind project.

With regard to CWW's arguments that the grid is congested, it is the responsibility of the NYISO to determine what system improvements are necessary in order to accommodate several

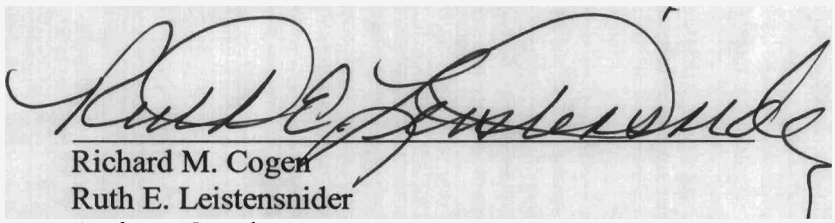
projects interconnected at the same location and how to allocate the costs of such improvements among those projects. CPP is prepared to pay its share of the costs of such system improvements as the NYISO determines are necessary, subject to the provisions of the NYISO's OATT. In the competitive generation industry, these costs are factored into the developer's economic analyses and site selection process and do not affect the economic benefits enjoyed by the communities in which the facilities are located.

CONCLUSION

CPP has addressed the comments offered by CWW and others. None of these comments warrant an evidentiary hearing nor any delay in the consideration of CPP's Petition in this proceeding.

Dated: March 22, 2007
Albany, New York

Respectfully submitted,



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Buffalo News (New York)

February 21, 2007 Wednesday
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Powering up 'Steel Winds'; First of 8 giant turbines completed at old Bethlehem site

By Maki Becker - NEWS STAFF REPORTER

One windmill up -- seven more to go.

The first of eight massive wind turbines that will make up the "Steel Winds" wind farm at the old Bethlehem Steel site in Lackawanna was completed Monday afternoon as workers attached the three 153-foot-long blades to a tower.

The developers of the wind project had hoped to have all eight turbines erected by last Thanksgiving.

However, the very heavy winds they aim to harness to make electricity made construction of the windmills -- particularly lifting the blades into the air -- far too dangerous.

Wind gusts as high as 75 mph have been clocked at the site along Lake Erie since the developers broke ground in September.

Now, with winds calming down, the construction crew has seized the opportunity to get the first 410-foot-tall wind turbine completed.

"The weather was cooperating," Steel Winds project manager Mark B. Mitskovski beamed Tuesday as efforts continued to complete a second turbine and put the finishing touches on several towers. "We're hoping to do more today."

The first turbine, which stands taller than Buffalo City Hall when a blade reaches the highest point, cab be seen from the Skyway and other waterfront vantage points.

Lackawanna Mayor Norman L. Polanski Jr., a champion of the Steel Winds project, said he eyed the windmill for the first time Monday.

"I was coming out of Buffalo on the Skyway," he said. "I looked up and said, 'There's something different out there.' I think it looks great. Everybody has been waiting for this. . . . I can't wait to see all eight of them up."

Polanski thinks that the small wind farm, among the first in the country to be built on a **brownfield** site, could mark a turning point for Lackawanna and the region.

"It's generated interest, and people know where the City of Lackawanna is," he said, remarking that a delegation from Cleveland recently came to check out Steel Winds. "It projects our city in a positive light. Considering everything we have run into, we need the positive light."

But Steel Winds has not been without controversy.

School officials are concerned, and some even upset, that the district is not getting any tax money from the project.

The developers, BQ Energy and UPC Wind, do not have to pay taxes on Steel Winds because wind and solar energy projects are exempt from paying taxes, according to New York property tax laws.

In fact, the project is eligible for many millions of dollars in federal, state and local breaks because it is creating a renewable source of energy.

In December 2005, the city brokered a deal to receive $100,000 a year for the next 15 years from the wind farm developers as long as the property tax exemption holds. Polanski said the developers agreed to the $1.5 million payout as a "goodwill gesture," not as a formal payment in lieu of taxes.

Lackawanna School Superintendent Paul G. Hashem pointed out that the city acts as a taxing entity for its school district. The tax agreement "excluded us and probably shouldn't have," Hashem said.

The school district's attorney has put the city on notice over the issue, and all parties are now awaiting an assessment on the project to determine how to go forward.

Hashem, who supports thee wind farm and even has a photo mock-up of the completed Steel Winds in his office, said he believes that the laws surrounding the tax exemptions were so complicated that the schools were inadvertently left out.

Polanski thinks that the developers' payments are adequate and appropriate. "I got the best deal I could for the City of Lackawanna," he said.

Paul F. Curran, managing director of BQ Energy, said his company has not had any direct dealings with the school district. Hashem hopes that "when all is said and done, everybody will sit down and shake hands and say, 'This is fair. "

The Steel Winds project is now expected to be fully operational by early April, the developers said Tuesday.

Over the next few days, blades of the completed turbine may turn every now and then. However, that is being done manually, Curran said, and it will take a few more weeks for it to go into service.

There also has been discussion of adding as many as 24 more wind turbines to the site, according to Polanski.

The Lackawanna City Council imposed a moratorium on more windmills, which Polanski says will be temporary.

Polanski said he believes that the city and developers will be able to figure out a way to put more windmills on the least desirable parts of the old Bethlehem Steel property. "I am in favor of them on the most polluted parts," he said, "not on some of the best where we can bring business to."

Curran wants to wait until the original eight wind turbines are up and running before beginning any serious talk about expanding the project, he said.

"We're still thinking about [adding more]," Curran said. "The plan is to keep our engineers on the very important job they're doing now."

e-mail:

Derek Gee/Buffalo News First of eight wind turbines gets finishing touches at former Bethlehem Steel site in Lackawanna, where the project has been slowed, ironically, by heavy winds.

February 21, 2007

GE
Energy

Ice Shedding and Ice Throw – Risk and Mitigation

David Wahl
Philippe Giguere
Wind Application Engineering

GE Energy
Greenville, SC

Ice Shedding and Ice Throw – Risk and Mitigation

Introduction

As with any structure, wind turbines can accumulate ice under certain atmospheric conditions, such as ambient temperatures near freezing (0°C) combined with high relative humidity, freezing rain, or sleet. Since weather conditions may then cause this ice to be shed, there are safety concerns that must be considered during project development and operation. The intent of this paper is to share knowledge and recommendations in order to mitigate risk.

The Risk

The accumulation of ice is highly dependent on local weather conditions and the turbine's operational state.[2,4] Any ice that is accumulated may be shed from the turbine due to both gravity and the mechanical forces of the rotating blades. An increase in ambient temperature, wind, or solar radiation may cause sheets or fragments of ice to loosen and fall, making the area directly under the rotor subject to the greatest risks[1]. In addition, rotating turbine blades may propel ice fragments some distance from the turbine—up to several hundred meters if conditions are right.[1,2,3] Falling ice may cause damage to structures and vehicles, and injury to site personnel and the general public, unless adequate measures are put in place for protection.

Risk Mitigation

The risk of ice throw must be taken into account during both project planning and wind farm operation. GE suggests that the following actions, which are based on recognized industry practices, be considered when siting turbines to mitigate risk for ice-prone project locations:

- **Turbine Siting:** Locating turbines a safe distance from any occupied structure, road, or public use area. Some consultant groups have the capability to provide risk assessment based on site-specific conditions that will lead to suggestions for turbine locations. In the absence of such an assessment, other guidelines may be used. Wind Energy Production in Cold Climate[6] provides the following formula for calculating a safe distance:

  1.5 * (hub height + rotor diameter)

  While this guideline is recommended by the certifying agency Germanischer Lloyd as well as the Deutsches Windenergie-Institut (DEWI), it should be noted that the actual distance is dependant upon turbine dimensions, rotational speed and many other potential factors. Please refer to the *References* for more resources.

- **Physical and Visual Warnings:** Placing fences and warning signs as appropriate for the protection of site personnel and the public.[4]

- **Turbine Deactivation:** Remotely switching off the turbine when site personnel detect ice accumulation. Additionally there are several scenarios which could lead to an automatic shutdown of the turbine:
  - Detection of ice by a nacelle-mounted ice sensor which is available for some models (with current sensor technology, ice detection is not highly reliable)
  - Detection of rotor imbalance caused by blade ice formation by a shaft vibration sensor; note, however, that it is possible for ice to build in a symmetric manner on all blades and not trigger the sensor[2]
  - Anemometer icing that leads to a measured wind speed below cut-in

- **Operator Safety:** Restricting access to turbines by site personnel while ice remains on the turbine structure. If site personnel absolutely must access the turbine while iced, safety precautions may include remotely shutting down the turbine, yawing to place the rotor on the opposite side of the tower door, parking vehicles at a distance of at least 100 m from the tower, and restarting the turbine remotely when work is complete. As always, standard protective gear should be worn.

References

The following are informative papers that address the topic of wind turbine icing and safety. These papers are created and maintained by other public and private organizations. GE does not control or guarantee the accuracy, relevance, timeliness, or completeness of this outside information. Further, the order of the references is not intended to reflect their importance, nor is it intended to endorse any views expressed or products or services offered by the authors of the references.

[1] *Wind Turbine Icing and Public Safety – a Quantifiable Risk?:* Colin Morgan and Ervin Bossanyi of Garrad Hassan, 1996.

[2] *Assessment of Safety Risks Arising From Wind Turbine Icing:* Colin Morgan and Ervin Bossanyi of Garrad Hassan, and Henry Seifert of DEWI, 1998.

[3] *Risk Analysis of Ice Throw From Wind Turbines:* Henry Seifert, Annette Westerhellweg, and Jürgen Kröning of DEWI, 2003.

[4] *State-of-the-Art of Wind Energy in Cold Climates:* produced by the International Energy Agency, IEA, 2003.

[5] *On-Site Cold Climate Problems:* Michael Durstewitz, Institut fur Solare Energieversorgungstechnik e.V. (ISET), 2003.

[6] *Wind Energy Production in Cold Climate:* Tammelin, Cavaliere, Holttinen, Hannele, Morgan, Seifert, and Säntti, 1997.

GER-4262 10A/061

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

STATE OF NEW YORK
DEPARTMENT OF STATE
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& STATE RECORDS

- ☐ County
- ☐ City of Cohocton
- ☒ Town
- ☐ Village

Local Law No. 2 **of the year 20** 06

A local law Amending the Zoning Law of the Town of Cohocton, New York to regulate windmills and windmill facilities.
(Insert Title)

Be it enacted by the Town Board **of the**
(Name of Legislative Body)

- ☐ County
- ☐ City of Cohocton
- ☒ Town
- ☐ Village

as follows:

Article III, section 310 of the Town of Cohocton Zoning Law is hereby amended to include the following allowed uses by special permit:

1 Residential and/or Commercial Windmills and Industrial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Agricultural-Residential District as a Special Permit Use.

2 Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Low-Density Residential District as a Special Permit Use.

3. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton General Business District as a Special Permit Use.

4. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Interchange Commercial District as a Special Permit Use.

5. Residential and/or Commercial Windmills and Windmill Facilities shall be allowed in the Town of Cohocton Industrial District as a Special Permit Use.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Article III, Zoning Schedule of the Town of Cohocton Zoning Law is hereby amended to allow maximum height and required setbacks as follows:

1. Residential and/or Commercial Windmills Maximum Height – one hundred (100) feet.

2. Industrial Windmills Maximum Height – five hundred (500) feet.

Article X, section 1010 of the Town of Cohocton Zoning Law is hereby amended include the following definitions.

1. Windmills – Residential AND/OR Commercial – a windmill that provides electrical or mechanical power to an individual residence, operating farm or single commercial enterprise and can be either the primary or a secondary source of energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

2. Windmill – Industrial – a windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.

3. Windmill Facilities – infrastructure related to Residential and/or Commercial Windmill or Industrial Windmill, or a series of Windmills, including electrical lines and substations, access roads and accessory structures necessary to operate said windmill and transmit the electrical power which is generated.

4. Windmill Height - the total height of the structure including blades, above the existing ground level.

Be it further enacted that a new Article XI of the Zoning Law of the Town of Cohocton shall be added as follows:

1100 PURPOSE

This Article is intended to regulate and restrict the height, size, location and other features of windmills and windmill facilities, and will, after reasonable consideration of the character of the Town of Cohocton and its peculiar suitability for particular uses, conserve and enhance natural resources and land values and protect existing properties and the environment.

1110 REQUIRED APPROVALS

1. Special Use Permit.

Applicants shall submit an application and be required to obtain special use permit approval from the Town of Cohocton Planning Board to install

or operate a Residential and/or Commercial Windmill, or Industrial Windmill or Windmill Facilities in the Town of Cohocton.

2. Site Plan.

(a) Applicants shall submit an application and be required to obtain site plan approval from the Town of Cohocton Planning Board before a building permit may be issued for the construction or operation of a Residential and/or Commercial Windmill, or Industrial Windmill or Windmill Facilities in the Town.

(b) A site plan drawn in sufficient detail to show the following, shall be required:

i. Location of the tower(s) on the site and the tower height, including blades, rotor diameter and ground clearance.
ii. Utility lines, both above and below ground, within a radius equal to the proposed tower height, including blades.
iii. Property lot lines and location and dimensions of all existing structures and uses on site within 500 feet of Windmill Facilities
iv. Surrounding land use and all structures within 1000 feet of the location of towers.
v. Dimensional representation of the various structural components of the tower construction, including base and footing.
vi. Design data indicating the basis of design, including manufacturer's dimensional drawings and installation and operation instructions.
vii. Certification by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the New York State Uniform Fire Prevention and Building Code.
viii. Industrial Windmill site plan applications shall include a separate plan for each tower location.
ix. The Planning Board may require any further information it finds may be necessary to review the application.

1120 ENVIRONMENTAL REVIEW

1. Compliance with the State Environmental Quality Review Act shall be required.

2. Applicants shall submit the following materials to the Town of Cohocton Planning Board:

(a) Residential and/or Commercial Windmill

Applicants shall be required to prepare and submit Part 1 of a full Environmental Assessment Form.

(b) Industrial Windmill

Applicants shall be required to prepare and submit a Draft and Final Environmental Impact Statement;

3. For Residential and/or Commercial Windmills, Industrial Windmills, and Windmill Facilities, the Applicant in consultation with the Planning Board will prepare:

(a) Visual Impact Analysis

i. Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the relevant municipality within the study area.

ii. Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.)

iii. Description of the character and quality of the affected landscape.

iv. Photographic simulations of what the proposed project will look like from a reasonable number of representative viewpoints within the 5 -mile radius study area to be selected in consultation with the Planning Board.

v. Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.

vi. Recommended visual mitigation measures (in accordance with DEC Policy DEP -00-2), if warranted, based on the results of the impact evaluation described above.

(b) Bird Migration Study

Appropriate bird migration studies shall be submitted. The Applicant shall solicit input from the New York State Department of Environmental Conservation on such studies.

(c). Predicted Windmill Only Noise Analysis:

i. A noise level analysis shall be prepared to determine predicted windmill-only noise and pure tone components at property lines of the wind development project which abut non-project parcels and existing residences.

ii. Windmill only noise shall be predicted based upon appropriate reference noise levels obtained from field measurements of the windmill proposed to be installed.

iii. Except as otherwise provided herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 50 dB(A), and windmill only noise at existing residences located on non-project parcels shall not exceed 45 dB(A).

iv. In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A), and windmill only noise at existing residences located on non-project parcels shall not exceed 40 dB(A).

A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

Band Range	Exceedence
31.5 – 125 Hz	15 dB(A)
160 – 400 Hz	8 dB(A)
500 – 8,000 Hz	5 dB(A)

1130 REVIEW STANDARDS

The following shall govern the siting, size, dimension, appearance, operation and use of windmills in the Town of Cohocton:

1. Residential and/or Commercial Windmills.

(a) Placement:

(i) Setbacks, Ice and Blade Throw.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be the structure height plus one-hundred (100)

feet. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

(ii) Number of Windmills Allowed per Lot: One (1).

(iii) Windmill Noise Level Limit.

v. Windmill only noise levels at non-project property lines shall not exceed 50.0 dB(A), except as set forth herein.

In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A). A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

Band Range	Exceedence
31.5 – 125 Hz	15 dB(A)
160 – 400 Hz	8 dB(A)
500 – 8,000 Hz	5 dB(A)

(iv) Guy Wires and/or Anchors.

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

(v) Lighting.

No windmill tower shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime, and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to that board's approval, with consideration of existing residential or Commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.

(vi) Broadcast Interference.

No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception.

The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(vii) Location on Lot

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

(b) Specifications:

(i) Maximum Height Limit.

Maximum height limit shall be no greater than 100 feet.

(ii) Kilowatt Limit: 10 KW

(iii) Color

Residential and commercial windmills color will be determined by the planning board unless an agency of the state or federal government mandates something different.

(iv) Structure. Solid tube.

(v) Type.

All types of windmills will be allowed.

(vi) Ice Buildup Sensors.

Ice buildup sensors are not required for residential and/or commercial windmills.

(vii) Connecting Cables.

All power transmission distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facilities to the collection station. All other circumstances would be reviewed during the site plan process.

(viii) Blade to Ground Distance.

The lowest portion of the blade may not be closer than (30) feet to the ground.

(ix) Windmill Design.

Only upwind design windmills are allowed in the Town.

(x) Signage

No advertising signs are allowed on any part of Residential and/or Commercial Windmills and Windmill Facilities.

(c) Notice and Safety Considerations and Requirements:

(i) Fencing.

Access to the tower shall be limited by secured entry to the tower base.

(ii) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(d) Operating Considerations and Requirements:

(i) Removal if Not Operational.

Any windmill, which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill

shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Landscaping

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas is a minimum.

(iii) Buildings and Grounds Maintenance

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept fenced in a designated storage area. Oil shall be disposed of legally.

(iv) Ownership Changes

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer.

(v) Windmill Modifications

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

(vi) Windmill Noise Level Limit

Windmill only noise levels at non-project property lines shall not exceed 50 dB(A) at non-project property lines, when measured at the minimum wind speed at which the windmill will achieve its rated electric output as set forth in the project related special use permit.

As set forth herein, compliance with windmill-only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The Code Enforcement Officer, or such other designated officer or employee of the Town, shall take three successive A-weighted fifteen (15) second L_{eq} measurements at an appropriate position on non-project property lines. If an arithmetic average of higher than 50 dB(A) is meassured, then the project sponsor shall cease operation of the nearest windmill, and the Code Enforcement Officer, or such other designated officer or employee of the Town, shall take another series of three, 15-second L_{eq} measurements. Appropriate places from which to take the sound measurements include areas where background noise is minimized and constant.

Windmill only noise shall be determined based upon the following formula:

$10 \text{ Log}_{10}\{10^{0.1C} - 10^{0.1A}\}$
*C = the recorded ambient noise level when the turbine is on;
A = the recorded noise level when the turbine is off.

Windmill only noise levels at non-project property lines may exceed the thresholds set forth herein only if the affected non-project property owner provides written consent to the Town Code Enforcement Officer.

(e) Certifications

(i) Routine Inspection Report

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every three (3) years thereafter. The inspection report required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(ii) National and State Standards

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit

shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(iii) Lightning Strike / Grounding

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

(iv) Wind Speed / Wind Load

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(f) Sureties.

(i) Performance Bond (Removal).

The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued.

If transmission/ distribution service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmills shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.

Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of sale and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Insurance – Liability.

Prior to issuance of a building permit, the application shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance,

of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission/distribution facility.

(iii) Environmental Contamination by Oil.

A performance bond will be required to deal with this situation. The owner of a windmill after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

2. Industrial Windmills.

(a) Placement:

(i) Setbacks, Ice and Blade Throw from Property Line.

Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be shall be the structure height plus one-hundred (100) feet. Structure height shall be measured from the ground surface level to the maximum height of the blades above the nacelle.

The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

(ii) Setbacks, Ice and Blade Throw From Dwellings.

The minimum setback distance between each production wind power electric generation unit (wind turbine tower) from adjacent

dwellings, areas or structures customarily used by the public shall be 1500 ft. Structure height includes the blades. The dwelling setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner or the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback in consented to, and construction within, and use of the easement area is appropriately restricted.

(iii) Windmill Noise Level Limit

Windmill only noise levels at non-project property lines shall not exceed 50.0 dB(A), except as set forth herein.

In the event that the noise generated by any windmill contains a pure tone component, as set forth herein, windmills shall be located so that predicted windmill only noise at non-project property lines shall not exceed 45dB(A). A pure tone is defined to exist when a one-third (1/3) octave band noise level exceeds the arithmetic average of the two adjacent one-third (1/3) octave band levels by the following:

Band Range	Exceedence
31.5 – 125 Hz	15 dB(A)
160 – 400 Hz	8 dB(A)
500 – 8,000 Hz	5 dB(A)

(iv) Guy Wires and/or Anchors

All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of (50) feet from any anchor point for guy wires or cables.

(v) Lighting.

Towers shall be lit according to State and Federal agency guidelines. Anything over 200' presently requires lighting.

(vi) Broadcast Interference

No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, televised or wireless phone or other personnel communication systems would likely to produce electromagnetic interference with signal transmission or reception.

The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(vii) Location on Lot

Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

(viii) Substations and/or Switch yards and connecting Distribution/ Transmission Lines.

Planning Board shall review locations and visual considerations at time of site plan approval.

(b) Specifications:

(i) Maximum Height Limit

Maximum height limit shall be no greater than 500 feet.

(ii) Color

Industrial windmills must be color approved by the Planning Board unless an agency of the state or federal government mandates something different.

(iii) Structure. Solid tube.

(iv) Type.

All types of windmills will be allowed.

(v) Ice Buildup Sensors

No wind turbines shall be permitted which lack an automatic shutdown feature in the event of blade icing.

(vi) Connecting Cables

All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facility to the collection station. All other circumstances would be reviewed during the site plan process.

(vii) Blade to Ground Distance.

The lowest portion of the blade may not be closer than thirty (30) feet to the ground.

(viii) Windmill Design.

Only upwind design windmills are allowed in the Town.

(ix) Signage

No advertising signs are allowed on any part of Industrial Windmills and Windmill Facilities.

(c) Notice and Safety Considerations:

(i) Fencing.

Access to the towers shall be limited by secured entry to the tower base.

(ii) Limit Tip Speed.

No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

(d) Operating Considerations

(i) Removal if Not Operational.

Any windmill, which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(ii) Landscaping

Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas will be a minimum.

(iii) Buildings and Grounds Maintenance

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept in a fenced designated storage. Oil shall be legally disposed of.

(iv) Ownership Changes

If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. The change in ownership shall be registered with the Code Enforcement Officer.

(v) Windmill Modifications

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

(vi) Windmill Noise Level Limit.

Windmill only noise levels at non-project property lines shall not exceed 50 dB(A), when measured at the minimum wind speed at which the windmill will achieve its rated electric output as set forth in the project related special use permit.

As set forth herein, compliance with windmill only noise level requirements shall periodically be determined by the Town Code Enforcement Officer, or such other officer or employee which the Town Board may designate. The Code Enforcement Officer, or such other designated officer or employee of the Town, shall take three successive A-weighted fifteen (15) second L_{eq} measurements at an appropriate position on non-project property lines. If the arithmetic average of noise at non-project property lines is equal to or below 50 dB(A), then the project shall be considered in compliance with this Article. If an arithmetic average of higher than 50 dB(A) is measured, then the project sponsor shall cease operation of the nearest windmill, and the Code Enforcement Officer, or such other designated officer or employee of the Town, shall take another series of three, 15-second L_{eq} measurements. Appropriate places from which to take the sound measurements include areas where background noise is minimized and constant.

Windmill only noise shall be determined based upon the following formula:

$10 \text{ Log}_{10}(10^{0.1C} - 10^{0.1A})$

*C = the recorded ambient noise level when the turbine is on;
A = the recorded noise level when the turbine is off.

Windmill only noise levels at non-project property lines may exceed the thresholds set forth herein only if the affected non-project property owner provides written consent to the Town Code Enforcement Officer.

(e) Certifications

(i) Routine Inspection Report

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every (3) years thereafter. The inspection reports required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(ii) National and State Standards

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (EEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(iii) Lightning Strike/Grounding

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmills have been or are being complied with.

(iv) Wind Speed

Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(f) Surities

i. Performance Bond (Removal)

The owner of a windmills, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmills is discontinued. An Engineer selected by the Town and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified herein.

If transmission/distribution service from the windmill is discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within (15) fifteen days following the expiration of the (6) six month discontinuance period.

Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmills shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill. Any foundation left must be at least 3' below surface land or facilities shall be left at the discretion of the land owner

ii. Insurance – Liability

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission facility.

iii. Environmental Contamination by Oil

A performance bond will be required to deal with this situation. The owner of the windmills after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

iv. Road Repairs

The turbine supplier and associated contractors will be responsible for any road repairs that may be necessary upon construction completion. The project developer shall document local road conditions prior to construction for all roads to be utilized in connection with the project, and shall submit a quarterly report to the Town Highway Superintendent which identifies all material changes in the condition of roads so utilized, which report shall be verified by the Town Highway Superintendent. Project approval should stipulate that the developer shall restore any road damage to the documented pre-construction conditions.

1140 Modifications and Waivers

1. The Planning Board, in addition to the foregoing section, may require such additional provisions and conditions that appear to promote further understanding of the applicant's proposal and are necessary for the purposes of ultimately protecting the health, safety and general welfare of the town's residents.

2. The Planning Board may, at its discretion, judge that certain requirements of this Article are not applicable in its approval of a site plan or special use permit, and may therefore, modify the applicable requirements and allow the applicant to submit only those elements which it deems necessary to the review and approval of the particular application.

1150 Duration of Special Use Permit and Continuing Obligations

Any special use permit approved pursuant to this Article shall remain in force and effect unless or until the windmill related windmill facilities are removed in accordance with the foregoing sections.

1160 Enforcement

This local law shall be enforced by the Code Enforcement Officer of the Town of Cohocton or such enforcement officer duly empowered by the Town of Cohocton.

1170 Penalties

In addition to Penalties and Remedial Actions allowed pursuant to Section 756 of these Regulations, the Code Enforcement Officer of the Town or such enforcement officer duly empowered by the Town of Cohocton may assess a civil penalty in an amount not to exceed $1.000 for any and all violations of this Article. Each day the violation continues once notice of the same is provided to the responsible party shall constitute a separate violation.

BE IT FURTHER RESOLVED THAT, this local law shall supersede all prior inconsistent local laws, ordinances or regulations.

BE IT FURTHER RESOLVED THAT, this local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)
I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 06 of the (County)(City)(Town)(Village) of Cohocton was duly passed by the Town Board on November 21 20 06, in accordance with the applicable
(Name of Legislative Body)
provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer)*
on _____ 20 _____, in accordance w ith the applicable provisions of law

3. (Final adoption by referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20 _____.
(Elective Chief Executive Officer)*
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved)
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20 _____. Such local
(Elective Chief Executive Officer)*
law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances

5. **(City local law concerning Charter revision proposed by petition.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20_____, became operative.

6. **(County local law concerning adoption of Charter.)**
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November_____ 20_____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Sandra Y. Rich
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: 11-30-06

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister
Signature
Cohocton Town Attorney
Title

County
City of
Town
Village
Cohocton

Date: November 30, 2006

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
MAR 08 2006
MISCELLANEOUS
& STATE RECORDS

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of
Town
~~Village~~ Cohocton

Local Law No. 1 of the year 20 06

A local law regulating windmills and wind generating faciliites.
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of
Town
~~Village~~ Cohocton as follows:

This local law will regulate and restrict the height, size, location and other features of windmills, and will after reasonable consideration of the character of the Town of Cohocton and its peculiar suitability for particular uses, conserve and enhance natural resources and land values and protect the existing properties and environment.

1. WINDMILLS - RESIDENTIAL AND/OR COMMERCIAL - a windmill that provides electrical or mechanical power to an individual residence, operating farm or single commercial enterprise and can be either the primary or a secondary source energy. Sale or credit of excess electricity to the utility grid is permitted as a tertiary use.

2. WINDMILL - INDUSTRIAL - a windmill, or series of windmills in a facility, whose purpose is to generate electricity that is fed into a power grid for sale.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

3. WINDMILL HEIGHT - the total height of the structure including blades.

4. SEVERABILITY CLAUSE - If any section, paragraph, subdivision or provision of this Local Law shall be held invalid, such invalidity shall apply only to the section, paragraph, subdivision or provision adjudged invalid, and the rest of this local law shall remain valid and effective.

5. EFFECTIVE DATE - All provisions of this local law take effect upon filing by the Town Clerk with the New York Secretary of State.

I. Residential and/or Commercial Windmills.

A. Application Process.

(1) Special Use Permit.
A special use permit shall be required. Therefore, the pertinent provisions of the Cohocton Town Zoning Law will apply.

(2) Site Plan Review.
A site plan review is required before a building permit may be issued for a residential or commercial windmill.

(3) SEQRA
SEQRA review is required. Developers shall submit the SEQRA long form for evaluation of environmental concerns.

B. Placement

(1) Setbacks, Ice and Blade Throw.
Setbacks from adjacent property lines, rights-of-way, easements, public ways or power line (not to include individual residential feed lines) shall be 1 ½ times the maximum structure height.

(2) Districts Allowed In:
AG-R, LDR, GB, IC, I

(3) Number of Windmills Allowed per Parcel.
One (1).

(4) Noise Level Limit
Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of the special use permit application.

(5) Guy Wires and/or Anchors.
All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of fifty (50) feet from any anchor point for guy wires or cables.

(6) Lighting.
No windmill tower shall be lighted artificially unless such lighting is required by a state or federal agency. Use of nighttime, and overcast daytime condition stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board, as a prerequisite to that board's approval, with consideration of existing residential or Commercial uses within 2000 feet of each tower for which such strobe lighting is proposed.

(7) View Impact.
The project developer, in consultation with the Planning Board, will prepare a Visual Impact Assessment (VIA) to evaluate the project's impact on scenic resources within a 5 -mile radius of the project site. The VIA may include any or all of the following as determined in consultation with the Planning Board:

a) Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2.), and of local significance, as officially listed by the relevant municipality within the study area.

b.) Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.

c.) Description of the character and quality of the affected landscape.

d.) Photographic simulations of what the proposed project will look like from a reasonable number of representative viewpoints within the 5 -mile radius study area to be selected in consultation with the Planning Board.

e.) Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.

f.) Recommended visual mitigation measures (in accordance with DEC Policy DEP - 00-2), if warranted, based on the results of the impact evaluation described above.

(8) Broadcast Interference.

a.) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

b.) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception.

c.) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(9) Location on Lot.
Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review.

C. Specifications.
(1) Maximum Height Limit.
Maximum height limit shall be no greater than 100 feet.

(2) KW Limit.
10 KW.

(3) Color.
Residential and commercial windmills color will be determined by the planning board unless an agency of the state or federal government mandates something different.

(4) Structure. Solid tube.

(5) Type.

All types of windmills will be allowed.

(6) Design and Specifications.
Detailed design and specifications will be required during site plan review.

(7) Bird Migration Study.
No bird migration study shall be required for residential windmills.

(8) Ice Buildup Sensors.
Ice buildup sensors are not required for residential and/or commercial windmills.

(9) Connecting Cables.
All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facilities to the collection station. All other circumstances would be reviewed during the site plan process.

(10) Blade to Ground Distance.
The lowest portion of the blade may not be closer than (30) feet to the ground.

D. Notice and Safety Consideration.

(1) Fencing.
Access to the tower shall be limited by secured entry to the tower base.

(2) Limit Tip Speed.
No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

E. Operating Considerations.
(1) Removal if Not Operational.
Any windmill, which has been out of active and continuous service for a period of one (1) year, shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(2) Landscaping.
Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas is a minimum.

(3) Buildings and Grounds Maintenance.

Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept fenced in a designated storage area. Oil shall be disposed of legally.

(4) Ownership Changes.
If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. However, the change in ownership shall be registered with the Code Enforcement Officer.

(5) Windmill Modifications.
Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

F. Certifications
(1) Routine Inspection Report.
An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every three (3) years thereafter. The inspection report required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(2) Insurance - Liability.
Prior to issuance of a building permit, the application shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission/distribution facility.

(3) National and State Standards.
The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(4) Performance Bond (Removal).
(a) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to

ensure the removal if the use of the windmill is discontinued. The requirements of subdivision c.) below.

(b) If transmission/distribution service from a windmill is to be discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within thirty (30) days of the date such discontinuance commenced.

c.) Any windmill which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/ or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(5) Lightning Strike/Grounding.
The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmill have been or are being complied with.

(6) Environmental Contamination by Oil.
A performance bond will be required to deal with this situation. The owner of a windmill after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and the Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

(7) Wind Speed/ Wind Load.
Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(8) Continuing Obligations.
All requirements set forth above shall remain in force for the life of the special use permit.

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II. Industrial Windmills. (Utility Scale)

A. Application Process.
(1) Special Use Permit.
A Special use permit shall be required.

(2) Site Plan Review.

A site plan review is required before a building permit may be issued for an industrial windmill.

(3) SEQRA
SEQRA review is required. Developer shall submit the long SEQRA form for the planning boards evaluation. In addition, the developer shall submit the visual Environmental Assessment Form addendum to the long form environmental assessment.

B. Placement

(1) Setbacks, Ice and Blade Throw From Property Line.

(a) The minimum setback distance between each production industrial wind power electric generation unit (wind turbine tower) from adjacent property lines, rights-of-way, easements, public ways, power lines, other generation units or areas 100 ft plus the maximum structure height. Structure height includes the blades. The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (I) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (ii) the owner of the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of the easement area is appropriately restricted.

Setbacks. Ice and Blade Throw From Dwellings.

(b) The minimum setback distance between each production wind power electric generation unit (wind turbine tower) from adjacent dwellings, areas or structures customarily used by the public shall be 1500 ft. Structure height includes the blades. The dwelling setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds the following: (1) both properties on each side of the property line in question will have electric generation or transmission facilities constructed on them as part of the project review, or (2) the owner or the property for which the reduced setback is sought executes and presents for recording a development easement satisfactory to the Town in which the reduced setback in consented to, and construction within, and use of the easement area is appropriately restricted.

(2) Districts Allowed In.
AG-R

(3) Noise Level Limit.
Individual wind turbine towers shall be located with relation to property lines so that the level of

noise produced during wind turbine operation shall not exceed 50 dba, measured at the boundaries of al of the closest parcels that are owned by non-site owners and that abut either the site parcels or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of the special use permit application.

(4) Guy Wires and/or Anchors.
All guy wires or cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point ten (10) feet above the ground. Setbacks for any windmill tower from any property line shall be a distance of (50) feet from any anchor point for guy wires or cables.

(5) Lighting.
(a) Towers shall be lit according to State and Federal agency guidelines. Anything over 200' presently requires lighting.

(6) View Impact.
The project developer, in consultation with the Planning Board, will prepare a Visual Impact Assessment (VIA) to evaluate the project's impact on scenic resources within a 5 - mile radius of the project site. The VIA may include any or all of the following as determined in consultation with the Planning Board:

a) Mapping of scenic resources of statewide significance, as defined by the NYS Department of Environmental Conservation (DEC) Visual Policy (Policy DEP-00-2), and of local significance, as officially listed by the relevant municipality within the study area.

b.) Viewshed mapping and/or cross section analysis to identify areas (including the significant resources identified above) with potential views of the project.

c.) Description of the character and quality of the affected landscape.

d.) Photographic simulations of what the proposed project will look like from a reasonable number or representative viewpoints within the 5 - mile radius study area to be selected in consultation with the Planning Board.

e.) Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above.

f.) Recommended visual mitigation measures (in accordance with DEC Policy DEP-00-2), if warranted, based on the results of the impact evaluation described above.

(7) Broadcast Interference.
a.) No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to

produce electromagnetic interference in the link's operation.

b.) No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, televised or wireless phone or other personnel communication systems would likely to produce electromagnetic interference with signal transmission or reception.

c.) The recipient of the special use permit must correct any unforeseen interference to the satisfaction of the Planning Board within sixty (60) days of any complaint.

(8) Location on Lot.
Windmill location is not restricted to rear or side yards. The Planning Board shall address location on lot during site plan review

(9) Substations and/or Switch yards and connecting Distribution/Transmission Lines.
Planning Board shall review locations and visual considerations at time of site plan approval.

(10) The turbine supplier and associated contractors will be responsible for any road repairs that may be necessary upon construction completion. The project developer shall document local road conditions in the vicinity of the project prior to construction. Project approval should stipulate that the developer shall restore any road damage to the documented pre-construction conditions.

C. Specifications.

(1) Maximum Height Limit.
Maximum height limit shall be no greater than 500 feet.

(2) Color.
Industrial windmills must be color approved by the Planning Board unless an agency of the state or federal government mandates something different.

(3) Structure.
Solid tube.

(4) Type.
All types of windmills will be allowed.

(5) Design and Specifications,
Detailed design and specifications will be required during site plan review.

(6) Bird Migration Study.
A bird migration study shall be performed for industrial windmills as required by the New York State Department of Environmental Conservation.

(7) Connecting Cables.
All power transmission/distribution lines from the windmill electricity generation facilities shall be underground from the windmill electric generation facility to the collection station. All other circumstances would be reviewed during the site plan process.

(8) Blade to Ground Distance.
The lowest portion of the blade may not be closer than thirty (30) feet to the ground.

D. Notice and Safety Considerations.
(1) Fencing.
Access to the towers shall be limited by secured entry to the tower base.

(2) Limit Tip Speed.
No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, over speeding, and excessive pressure on the tower structure, rotor blades, and turbine components.

E. Operating Considerations.
(1) Removal if Not Operational.
Any windmill, which has been out of active and continuous service for a period of one (1) year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill.

(2) Landscaping.
Upon completion of installation the site shall be returned as close as possible to its natural state. Seeding of disturbed areas will be a minimum.

(3) Building and Grounds Maintenance.
Any damaged or unused parts shall be removed from the premises within thirty (30) days or kept in a fenced designated storage area or legally disposed of. All maintenance equipment and spare parts, etc shall also be kept in a fenced designated storage. Oil shall be legally disposed of.

(4) Ownership Changes.
If the ownership of a windmill operating under a special use permit changes, the special use permit shall remain in force. All conditions of the special use permit, including bonding, letters of credit or continuing certification requirements of the original owner will continue to be obligations of succeeding owners. The change in ownership shall be registered with the Code Enforcement Officer.

(5) Windmill Modifications.

Any and all modifications, additions, deletions or changes to windmills that operate under a special use permit, whether structural or not, shall be made by special use permit, except that such special use permit shall not be required for repairs which become necessary in the normal course of use of such windmill or become necessary as a result of natural forces, such as wind or ice.

F. Certifications.

(1) Routine Inspection Report.

An inspection report prepared by the turbine supplier/manufacturer licensed in the State of New York will be required at the time of installation and every (3) years thereafter. The inspection reports required at the time of installation and thereafter will be for the structure and the electronics and will be given to the Code Enforcement Officer.

(2) Insurance - Liability.

Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or any other part(s) of the generation and transmission facility.

(3) National and State Standards,

The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction operation and maintenance of the proposed windmill have been met or are being complied with. Windmills shall be built, operated and maintained to applicable industry standards of the Institute of Electrical and Electronic Engineers (EEEE) and the American National Standards Institute (ANSI). The applicant for a windmill special use permit shall furnish evidence, over the signature of a professional engineer licensed to practice in the State of New York, that such windmill is in compliance with such standards.

(4) Performance Bond (Removal)

(a) The owner of a windmill, after such application has been approved and before a building permit is issued, shall submit a letter of credit or other acceptable surety sufficient to ensure the removal if the use of the windmill is discontinued. The requirements of subdivision c.) below shall apply. An Engineer selected by the Town and the Town Attorney shall judge this letter of credit or other surety adequate and satisfactory before a building permit is issued. Said letter of credit shall be forfeited if removal is not completed by the deadline specified in subdivision c.) below.

(b) If transmission/distribution service from the windmill is discontinued for a period exceeding six (6) months, the owner of such windmill shall notify the Code Enforcement Officer within (18) eighteen days following the expiration of the (6) six month discontinuance period.

c.) Any windmill which has been out of active and continuous service for a period of one (1)

year shall be removed from the premises to a place of safe and legal disposal. Any and all structures, guy cables, guy anchors and/or enclosures accessory to such windmill shall also be removed. The site shall be restored to as natural a condition as possible. Such removal shall be completed within (18) eighteen months of the cessation of active and continuous use of such windmill. Any foundation left must be at least 3' below surface land or facilities shall be left at the discretion of the land owner.

(5) Lightning Strike/Grounding.
The applicant shall show that all applicable manufacturers, New York State and U.S. standards for the construction, operation and maintenance of the proposed windmills have been or are being complied with.

(6) Environmental Contamination by Oil.
A performance bond will be required to deal with this situation. The owner of the windmills after such application has been approved and before a building permit is issued, shall submit the maximum amount letter of credit or acceptable surety necessary to ensure the cleanup of any contamination according to DEC requirements. An Engineer selected by the Town and Town Attorney shall judge the letter of credit or other surety adequate and satisfactory before a building permit is issued.

(7) Wind Speed/Ice Load.
Certification is required by a registered professional engineer or manufacturer's certification that the tower design is sufficient to withstand wind-load requirements for structures as established by the Building Code of New York State.

(8) Continuing Obligations.
All requirements specified above shall remain in force for the life of the special use permit.

III. Enforcement. This local law shall be enforced by the Code Enforcement Officer of the Town of Cohocton or such enforcement officer duly empowered by the Town of Cohocton.

IV. Penalties.

a.) Any person who shall violate any of the provisions of this local law shall be guilty of an offense and subject to a mandatory fine of Two Hundred Fifty Dollars ($250.00) for each offense. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

b.) In addition to the above provided penalties, the Board may also maintain an action or proceeding in the name of the Town in a court or competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of

this local law.

V **Separability.** Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

VI. **Effective.** This law shall be effective upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2006 of the (~~County~~)(~~City~~)(Town)(~~Village~~) of Cohocton was duly passed by the Town Board on Jan. 24th 2006, in accordance with the applicable provisions of law.

(Name of Legislative body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted

(Elective Chief Executive Officer)*

on _____ 20 _____, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

(Elective Chief Executive Officer)*

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. **(City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. **(County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Sandra Y. Riley

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body Sandra Riley

Cohocton Town Clerk

(Seal)

Date: February 13, 2006

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF STEUBEN

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Patrick F. McAllister

Signature Patrick F. McAllister

Town of Cohocton Attorney

Title

~~County~~
~~City~~ of Cohocton
Town
~~Village~~

Date: February 13, 2006