RIDGELINE ENERGY

May 29, 2012

Honorable Jaclyn A. Brilling
Secretary, New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Comments to the New York Board on Electric Generation Siting and the Environment
Case 12-F-0036

Dear Secretary Brilling:

Ridgeline Energy LLC ("Ridgeline") is a wind and solar energy developer headquartered in Seattle, WA, with projects in operation and under development across the United States. We are currently in development of a portfolio of projects in New York State. Ridgeline is a member of the Alliance for Clean Energy NY and the American Wind and Wildlife Institute and adheres to the highest standards of environmental stewardship with respect to the natural and human environment during development, construction and operation of our projects.

On April 11, 2012, the New York Board on Electric Generation Siting and the Environment ("Siting Board") officially issued for public comment the proposed regulations to implement provisions of Article 10 of the Public Service Law. Notice of the final proposed regulations appeared in the April 11th edition of the NYS Register, beginning a 45-day public comment period. We applaud the State's coordinated effort to streamline the permitting process for major electric generation facilities, thereby reducing uncertainty and helping New York meet the goals of the State Energy Plan.

Ridgeline's focus in New York is on projects sited inside transmission constrained areas. As these projects are closer to load they are generally speaking more limited in space available to add additional capacity. Considering New York's ambitious renewable energy goals, it is imperative that such moderately scaled projects are not "crowded out" by the regulatory process. We are concerned that the regulations as presently proposed unknowingly and unnecessarily create enormous freight to bear for the Applicant. The burden is disproportionately heavy for moderately sized renewable energy projects with a higher permitting cost to size ratio. Given the goals of the state energy plan, and the existing challenges of transmission constraints, it is imperative that New York has a balanced approach encouraging projects of a range of sizes.

We ask that the Siting Board examine the standards in the proposed draft regulation from a cost/benefit standpoint. There are several application requirements that add considerable cost to a developer (even greater for a wind facility than a traditional generator, which is even more burdensome for a moderate sized wind facility), and provide no tangible benefit to the Board or stakeholders in evaluating the impacts of a project.

The most pressing need for change of the draft regulations, however, is to provide for an early determination from the Board on which elements of local laws identified by the Applicant as unreasonably burdensome shall and shall not apply. An early decision from the Board will allow the Applicant to make any necessary revisions pre-application leading to a more efficient use of resources for all involved parties. There is nothing in the Public Service Law that precludes early determination on provisions of local laws. Not implementing an early decision process on local laws could discourage applications for moderately sized renewable projects in communities where larger projects are not practical, which would be contrary to the objectives of the State Energy Plan.

Attached as an appendix to this letter Ridgeline Energy respectfully submits detailed comments on individual sections of the Draft Regulations. We thank you for the opportunity to submit these comments for your consideration.

Sincerely,

Owen B. Grant
Project Manager

Attachment

Appendix I
Comments to the New York Board on Electric Generation Siting and the Environment Case 12-F-0036

- Definitions: (x) Modification
    - In the draft regulations, "modification" is defined as: An amendment of an Application or Certificate that is not a revision; including the shifting of a wind turbine to a new location within a 500 foot radius of the original location provided such change does not significantly increase impacts on sensitive resources or decrease compliance with setback and similar requirements.
        - We appreciate that the Siting Board drew a distinction between a "modification" and a "revision" regarding a turbine move. The goal of a developer is always to minimize impacts and apply the additional knowledge learned and input received throughout the development process. Therefore, layout modifications beyond turbine moves are commonplace. Changes in the location of access roads and collection lines and the orientation of a substation should be included in the definition, as these modifications do not create significant impacts.

- 1001.4(d) Public Information Program
    - Engaging the public and encouraging participation ensures that stakeholders become aware not only of the project but also of their opportunity to be involved in the review process. For most developers of any type of electric generation facility, public engagement commences in the nascent days of project development, and continues through the application and review process. In this vein, the goal of ensuring public awareness and affording stakeholders ample opportunity to participate can be achieved in a much shorter timeframe than 150 days as outlined in this section. Moreover, the 150-day Public Information Program timeline threatens to extend the overall permitting process beyond the timeframe outlined in the Public Service Law. For Applicants that have engaged the public dating back several years, 150 days for the Public Information Program is particularly excessive. There is no need to build in additional time for an optional written response to the Public Information Coordinator and the process could be completed in 60 days. This administrative back and forth adds time without more effectively involving the public. For all projects, reducing the Public Information Program by 60 days to 90 days would still provide sufficient time for stakeholders to formally be made aware of – and prepare to participate in – the application process, prior to the submission of the Preliminary Scoping Statement.

- 1000.5 Pre-Application Procedures
    - 1000.5 (l)(3) This section calls for the Applicant to list and describe all regulations in local laws applicable to the construction, operation and maintenance of the facility and provide a preliminary assessment of an ability to comply with those regulations. The Applicant may request that the Siting Board not apply elements of local provisions and provide an explanation of why given elements of local laws identified are unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers.
        - It is essential that during the pre-application process the Siting Board provides an indication of which elements of local provisions identified by the Applicant as

unreasonably burdensome are determined unreasonably burdensome by the Siting Board.

- Certain aspects of local laws could make it impossible to construct the facility as described in the Preliminary Scoping Statement. Given the high level of detail and considerable cost required to finalize (and potentially, to revise) an application, the Siting Board should provide guidance at the earliest possible time so that the Applicant can put forth only an application for which it could potentially receive a Certificate.
    - An example could be a law which requires wind turbines to be set back a distance of ten times the Rotor Diameter from off-site property boundary lines or requires a sound limit of 35dBA at night outside a residence. Based on the existing technology and the practice at existing facilities in the state, these standards are clearly unreasonably burdensome and would likely rule out a wind energy facility anywhere in the State. If however, at some point after the application (which as outlined below requires a considerable amount of information upfront), the Siting Board elected to enforce such criteria, the State would lose out on a project and the Applicant would have unnecessarily expended considerable resources preparing the application. Additionally, the Board should wave the fee corresponding to any revision that the Applicant undertakes as a result of the Board's election to enforce an element of the local law that the Applicant identified in the Preliminary Scoping Statement as unreasonably burdensome.

- 1000.10 Fund For Municipal and Local Parties
    - 1000.10 (b)(2) The intervener funding amounts required at the time of the Preliminary Scoping Statement and application are disproportionately burdensome for smaller projects and could be viewed as discouraging renewable projects, especially moderately sized renewable projects that are subject to Article 10. The Intervener funds required are based on size though the total fees that can be charge are capped—such that large projects do not bear the full $/MW rate that smaller projects do. Smaller projects are even more disadvantaged by the revision fee.

      The fee required for a revision is $75,000 and applies equally to all projects, as opposed to a fee based (at least up to a point) on size. By way of example, for a 37.5 MW project, the additional intervener fee required for a revision of $75,000 equals $2000/MW whereas the original fee made available for interveners to evaluate the impacts of the entire project is $37,500 or $1000/MW—half the amount made available to evaluate and comment on the revision. It is hard to imagine a singular revision that would have twice the impact as an entire facility. The $2000/MW revision fee for a 37.5MW project would compare to $187.50/MW for a 400MW project. We ask that the board reduce the revision fee to $187.50/MW up to $75,000 (the Preliminary Scoping Statement intervener fee is $350/MW capped at $200,000, the application intervener fee is capped at $400,000; or at $1000/MW for up to 400 MW and a lower rate above 400 MW).

- 1001.6 Exhibit 6 Wind Power Facilities
    - 1001.6 (a) and (b) The description of, and requirement for setbacks could be a summary of the discussion stemming from the Preliminary Scoping Statement, as mentioned above. Unreasonable setbacks could be a non-starter and it is preferable for all involved parties that this issue, if under question, be addressed prior to the application.
    - 1001.6 (c) The third-party review under this section could be a post-Certificate condition for construction. The precise turbine model and design may not be finalized at the time of application. Turbine procurement is an elaborate process that typically is finalized after all discretionary permits are obtained. Therefore, for the purpose of the application, it makes more sense to provide the general characteristics of the most impactful turbine under consideration, i.e. greatest overall height, largest rotor diameter, etc.
    - 1001.6 (d) Wind data is proprietary information that for competitive reasons must remain confidential. This is especially the case given the competitive solicitations under the Renewable Portfolio Standard in which wind projects participate.

- 1001.11 Exhibit 11 Preliminary Design Drawings
    - 1001.11(a) While the level of detail required in this section is an improvement from the January 13th version of the draft regulations, even requiring preliminary engineered drawings at the time of application is unnecessarily burdensome given the fact that modifications can and will take place. Design drawings will not aid the Siting Board in evaluating impacts beyond those which could be determined from sketches and impact calculations.
    - 1001.11(c) Grading and erosion plans are best done after all modifications have been made. Grading and erosion plans along with design drawings could be a post-Certificate condition of construction.
    - 1001.11 (c) Regarding depth to bedrock, if the topography/relief within the site area is uniform or mostly uniform, or if wind turbines are located on a single landform where significant variability is unlikely, then a representative sample of locations with the depth to bedrock should suffice. Boring turbine locations would occur prior to construction, and it is preferable to bear this cost once, only after locations are finalized.
    - 1001.11 (g) and (h) The interconnection facility is designed by the Transmission Owner. The design of the facility occurs during the Facility Study under the NYISO Large Facility Interconnection Procedures. Only thereafter can designs for underground and overhead interconnection facilities be finalized.

- 1001.14 Exhibit 14 Cost of Facilities
    - Information concerning facility cost structure should be confidential to protect competitive position for individual companies and to ensure a competitive market. Further, certain costs are not determined at the time of application (e.g. the interconnection costs are established by NYISO, and often finalized much closer to construction).

- 1001.22 Exhibit 22 Terrestrial Ecology and Wetlands

- 1001.22 (h)(3)(i) Regarding the mapping requirements in this section, it should be clarified what is meant by the exemption for "sites without accessibility".

- 1001.23 Exhibit 23 Water Resources and Aquatic Ecology
  - 1001.23 (a)(2) This section calls for using publicly available information to create a map delineating aquifers and groundwater recharge areas including yield and use of public and private wells. For a wind project, it is unnecessary to perform such an analysis for a one-mile radius. The immediate proximity of project facilities is a more appropriate requirement.
  - 1001.23 (c) (1) The Stormwater Pollution Prevention Plan (SWPPP) required for the application should be a preliminary SWPPP.

- 1001.24 Exhibit 24 Visual Impacts
  - 10001.24 (11) The requirement of "a description of all visual resources that would be affected by the facility" is too open-ended. Perhaps the requirement could be reworded as "identify significant visual resources" as in to show on a map and provide a list of the visual resources.

- 1001.31 Local Law and Ordinances
  - As discussed in the comments above on the Preliminary Scoping Statement, the review process is better served if the board provides a determination on pre-emption of elements of local laws during the pre-application process.