

BEFORE THE
STATE OF NEW YORK
BOARD ON ELECTRIC GENERATION
SITING AND THE ENVIRONMENT

In the Matter of

Baron Winds LLC

Case 15-F-0122

March 24, 2023

Prepared Testimony of:

John Quackenbush
Utility Engineering Specialist 2
Office of Electric Gas & Water

State of New York
Department of Public Service
Three Empire State Plaza
Albany, New York 12223-1350

1 Q. Please state your name, employer, and business
2 address?

3 A. My name is John Quackenbush, and I am employed
4 by the New York State Department of Public
5 Service (Department), located at Three Empire
6 State Plaza, Albany, New York, 12223-1350.

7 Q. Mr. Quackenbush what is your position at the
8 Department?

9 A. I am an Engineering Specialist 2 in the
10 Environmental Certification and Compliance
11 Section of the Office of Electric, Gas and
12 Water.

13 Q. Please summarize your educational background and
14 professional experience.

15 A. I attended Hudson Valley Community College in
16 Troy, New York and received an individual study
17 associate degree, as well as an Associate in
18 Applied Science degree in civil engineering
19 technology. Thereafter, I continued my
20 education at the State University of New York
21 Polytechnic Institute, formerly known as the

1 State University of New York Institute of
2 Technology in Utica, New York and graduated with
3 a Bachelor of Science degree in civil
4 engineering technology. I was employed at CHA
5 Consulting, Inc. (formerly Clough, Harbour, &
6 Associates LLP) as a Design and Drafting
7 Technician from 2000 until November 2006. In
8 February 2007, I joined the Department's
9 Electric Distribution Section in the Office of
10 Electric, Gas and Water as a Utility Engineer,
11 where I performed utility inspections to assess
12 electric distribution infrastructure conditions,
13 investigated various electric utility customer
14 reliability complaints, and reviewed utility
15 reliability reports. Since October 2009, I have
16 worked as an Engineering Specialist 2 in the
17 Environmental Certification and Compliance
18 section of the Office of Electric, Gas and
19 Water. My duties include reviewing site plans,
20 proposed major electric generation,
21 transmission, and distribution facility

1 locations and utility routes, construction
2 practices, and environmental control plans for
3 various projects, including review of Public
4 Service Law (PSL) Article VII and Article 10
5 applications. Additionally, I review and
6 provide recommendations for compliance filings
7 related to final design and details of certified
8 projects (Article VII and 10 cases); such
9 compliance filings include final site plans,
10 plan and profile drawings, maintenance and
11 protection of traffic plans, foundation Details
12 (for solar array and wind turbines), civil
13 construction details, and decommissioning plans.

14 Q. Mr. Quackenbush, have you previously testified
15 before the Public Service Commission
16 (Commission) or the State of New York Board on
17 Electric Generation Siting and the Environment
18 (Siting Board)?

19 A. Yes. I have testified before the Commission and
20 the Siting Board in several cases regarding
21 proposed electric infrastructure upgrades,

1 electric power transmission routes, the siting
2 of electric generation plants, electric rates,
3 and research and development programs. Some
4 representative cases include the matter of
5 Hudson Transmission Partners, LLC (Case 08-T-
6 0034) in which I provided analyses of its
7 proposed electric upland route in Manhattan, the
8 constructability of the route, proposal of
9 alternative routes, and construction practices.
10 Additionally, I reviewed routing and
11 constructability issues pertaining to the
12 granting of a Certificate of Environmental
13 Compatibility and Public Need through a Joint
14 Proposal for the Champlain Hudson Power Express,
15 Inc., in Case 10-T-0139. My primary role
16 regarding major wind and solar electric
17 generation projects involves review of
18 facilities regarding proposed setback distances,
19 preliminary design drawings, and proposed
20 general construction practices including
21 assembly and foundation work, electric

1 collection lines and related transmission lead
2 installations, access ways, and any associated
3 building facilities. Also, I review the
4 potential impacts related to transportation due
5 to general construction and delivery activities
6 during wind turbine and solar installations;
7 additionally, I review the various site
8 restoration and decommissioning proposals and
9 final compliance filings of Article 10 projects.
10 I have provided testimony regarding
11 decommissioning plans and general construction
12 provisions of proposed major electric generation
13 facilities in cases 14-F-0490; 14-F-0122; 15-F-
14 0122; 16-F-0062; 16-F-0205; 16-F-0267; 16-F-
15 0238; and 16-F-0559. Additionally, I testified
16 as part of the Staff Policy Panel for Case 16-F-
17 0267. I have also prepared and submitted
18 testimony as part of the Staff Panel in Support
19 of Settlement for the Mohawk Solar Project in
20 Case 17-F-0182; the Coeymans Solar Farm in Case
21 17-F-0617; East Point Energy Center in Case 17-

1 F-0599; and High Bridge Wind in Case 18-F-0262.

2 Q. Please describe your review of the Petition for
3 Amendment to the Certificate of Environmental
4 Compatibility and Public Need, filed jointly by
5 Baron Winds LLC and Baron Winds II LLC
6 (collectively the "Petitioner" or "Baron Winds")
7 on September 6, 2022 ("Phase II Amendment
8 Petition").

9 A. I specifically reviewed the Petitioner's "Draft
10 Decommissioning Plan - Appendix M" ("Draft
11 Decommissioning Plan"), as filed on the Public
12 Service Commission's Document and Matter
13 Management System (DMM), included in the Phase
14 II Amendment Petition, in addition to general
15 filings, requests, and reporting in the Petition
16 regarding decommissioning and the Federal
17 Aviation Administration (FAA) Notice of Proposed
18 Construction or Alteration that will be required
19 for the newly proposed turbine sites. The Phase
20 II Amendment Petition requests the installation
21 of up to 26 turbine sites, which will utilize

1 the Vestas V150-4.5 megawatt (MW) model, for
2 construction and operation of the Baron Winds
3 Phase II Facility.

4 Q. Are you sponsoring any Exhibits?

5 A. No.

6 Q. Please describe Petitioner's request to modify
7 Certificate Condition 44 (included in the
8 September 12, 2019 Certificate of Environmental
9 Compatibility and Public Need, with Conditions
10 ("Certificate Order")).

11 A. Petitioner has requested amending language
12 included in Certificate Condition 44 to reflect
13 what it states is a reduction in overall
14 Facility components as compared to the
15 originally approved Facility layout. Baron
16 Winds states the following in the Phase II
17 Amendment Petition: "[i]n light of the reduction
18 to a number of Facility components, including a
19 reduction in the number of turbines for the
20 Project overall, the associated cost for
21 decommissioning and site restoration is now

1 estimated at approximately \$1,250,000 less than
2 the original estimate of \$9,763,500. Baron Winds
3 already provided Letters of Credit for
4 decommissioning of Phase I in the total amount
5 of \$4,719,896 to the Towns of Dansville,
6 Cohocton, and Wayland. The total
7 decommissioning estimate for Phase II is
8 \$3,792,240.00. The CECPN, Condition 44,
9 includes a requirement that the irrevocable
10 letters of credit to be established by the
11 Certificate Holder be no less than \$9,763,500."

12 Q. Explain what the \$9,763,500 is intended to cover
13 regarding financial assurance of the Project.

14 A. Under Certificate Condition 44 of the
15 Certificate Order, that total amount is required
16 to be provided as financial assurance for the
17 purpose of decommissioning the overall Project
18 facilities, which, ultimately, would include all
19 facilities of Baron Winds Phases I and II.

20 Q. Please describe your understanding of what is
21 meant by "reduction to a number of Facility

1 components.”

2 A. Through the Certificate Order, the Siting Board
3 authorized the installation of up to 68
4 turbines. On May 6, 2020, the Siting Board
5 issued an Order Approving Amendment (“Phase I
6 Amendment”), which, among other things, allowed
7 Baron Winds to remove all turbine sites proposed
8 in the Town of Fremont, resulting in the
9 approval of up to 33 turbines to be hosted by
10 the Towns of Dansville, Cohocton, and Wayland.
11 It should be noted that the Phase I Amendment
12 states, “[a]lthough the Certificate Holder
13 reserves its rights to construct in the Town of
14 Fremont, we acknowledge that without further
15 amendment, the Certificate limits the total
16 Project to 68 turbine sites and a maximum
17 capacity of 242 MW.” Furthermore, the Phase I
18 Amendment includes the following ordering
19 clause: “[B]aron Winds, LLC shall file a further
20 amendment and obtain Siting Board approval in
21 the event it opts to move forward with Phase II

1 prior to any pre-construction and construction
2 activity." Thereafter, Baron requested to build
3 up to 26 turbines as described in the Phase II
4 Amendment Petition, which would result in a
5 total of 59 turbine sites within both Baron
6 Winds Phases I and II. As a result, there will
7 be 9 fewer turbines overall compared to what was
8 originally approved in the Certificate.

9 Q. Describe Baron Wind's request to amend language
10 in Certificate Condition 44 to reflect a cost
11 reduction of the baseline decommissioning value
12 due to a reduction in Facility components, as it
13 relates to the Decommissioning Plan.

14 A. In the Certificate Order, the Siting Board found
15 that "[t]he record here contains specific dollar
16 amount estimates for itemized activities
17 associated with decommissioning and site
18 restoration that support adoption of the figure
19 provided by Baron, namely \$9,763,500.

20 Accordingly, we [the Siting Board] adopt that
21 figure as the baseline value for the

1 decommissioning reserve. If Baron's later
2 estimates demonstrate that a higher reserve
3 should be established, those estimates shall
4 prevail; however, the level of the reserve
5 should, in no event, fall below the \$9,763,500
6 amount established here." This minimum baseline
7 is also required in Certificate Condition 44 of
8 the Certificate. In the Phase II Amendment
9 Petition, Baron Winds explains that the overall
10 total decommissioning estimate/financial
11 assurance (Baron Winds Phase I & Baron Winds
12 Phase II), which includes the already
13 established letters of credit for Baron Winds
14 Phase I plus the estimate included in the Draft
15 Decommissioning Plan for Baron Winds Phase II
16 (Appendix M of the Petition), results in a total
17 financial assurance that is approximately
18 \$1,250,000 less than the baseline value
19 established in the Certificate Order. According
20 to Petitioners, the decrease of the projected
21 overall decommissioning estimate results from

1 the reduction of the overall turbine sites and
2 associated facilities. Baron Winds further
3 indicates in the Phase II Amendment Petition
4 that "[t]he decommissioning estimate for Phase
5 II is sufficient to cover any decommissioning
6 activities, in the unlikely event that
7 Petitioners cannot perform decommissioning and
8 the Towns need to remove facility components.
9 Moreover, the estimate must be updated by a
10 qualified independent engineer licensed to
11 practice engineering in the State of New York to
12 reflect inflation and any other changes after
13 one year of Facility operation and every fifth
14 year thereafter. This accounts for any
15 potential future price fluctuations. As such,
16 Baron Winds seeks a modification to the CECPN
17 removing the requirement for a minimum amount in
18 assurances for decommissioning and site
19 restoration."

20 Q. Please further explain how the projected overall
21 decommissioning estimate for both Phase I and

1 Phase II is approximately \$1,250,000 less than
2 the originally proposed total, which is listed
3 in Certificate Condition 44 as the minimum
4 baseline decommissioning assurance to be
5 provided for towns hosting Project facilities.

6 A. As just discussed, Certificate Condition 44 sets
7 a minimum baseline overall decommissioning
8 amount provided as financial assurance, in the
9 form of letters of credit to be held by
10 municipalities hosting the Project. That number
11 was based on a total of 68 turbines and
12 associated facilities. The Phase I
13 Decommissioning Plan covers removal and
14 restoration of 33 turbine sites and associated
15 facilities. In accordance with the Phase I
16 Decommissioning Plan, Baron Winds provided
17 financial assurance in the form of letters of
18 credit in the combined amount of \$4,719,896 for
19 the Towns of Dansville, Cohocton, and Wayland.
20 The Decommissioning Plan for Phase I was
21 approved by the Commission, as a Compliance

1 Filing, on September 14, 2021. In approving the
2 Decommissioning Plan for Phase I, the Commission
3 noted that the total amount of financial
4 assurance of Phase I and Phase II shall total a
5 minimum of \$9,763,500. Thereafter, a
6 Decommissioning Plan for Phase II, including
7 turbines and facilities proposed in the Town of
8 Fremont, was submitted as part of the Phase II
9 Amendment Petition (Proposed Phase II
10 Decommissioning Plan). The purpose of the
11 estimate included in the Proposed Phase II
12 Decommissioning Plan is for future removal and
13 restoration of 26 turbines and associated
14 facility sites in the Town of Fremont; the total
15 estimate in this document is listed as
16 \$3,792,240.00. Therefore, the approved
17 financial assurance for Phase I, which has been
18 provided for host towns (and approved by the
19 Commission), plus the projected estimate
20 included as part of the Phase II Amendment
21 Petition totals \$8,512,136, which is

1 approximately \$1,250,000 less than the minimum
2 baseline established in Certificate Condition
3 44. It should be noted that the Decommissioning
4 Plan for Phase II has not yet been filed or
5 approved as a compliance filing.

6 Q. Does DPS Staff object to Baron Winds' requested
7 change to the Certificate, removing the
8 requirement for a minimum total amount of
9 financial assurance for decommissioning and site
10 restoration of both Baron Winds Phases I and II
11 facilities?

12 A. DPS Staff does not object to removing this
13 minimum baseline amount of \$9,763,500, as
14 established in Certificate Condition 44, as the
15 reduction of turbines and associated facilities
16 compared to the number of turbines which the
17 baseline is based upon warrants potential for
18 reduction of overall financial assurance of
19 Baron Winds Phases I and II. Therefore, DPS
20 Staff would not object to striking the following
21 language from Certificate Condition 44: "The

1 total amount of the letters of credit created
2 for the Towns of Cohocton, Dansville, Fremont,
3 and Wayland will represent the total final
4 decommissioning and site restoration estimate,
5 as described below, but will in no event be less
6 than \$9,763,500." However, in reviewing the
7 Phase II Draft Decommissioning Plan, DPS Staff
8 notes that content in this estimate may require
9 adjustments (potential for increase of per
10 turbine removal due to inflation, etc.); and
11 such adjustments could cause the overall
12 financial assurance total for all four towns to
13 equal or exceed the originally established
14 minimum baseline of \$9,763,500. Additionally,
15 the Phase II Draft Decommissioning Plan includes
16 reference to salvage value. The salvage value
17 reference is informational and does not reduce
18 the projected decommissioning estimate.
19 Nevertheless, Certificate Condition 44 specifies
20 that no offset for projected salvage value is
21 permitted in the calculation of the estimate;

1 and therefore, DPS Staff would recommend
2 removing this language. DPS Staff reserves the
3 right to comment on the above listed material,
4 as well as any other identified issues, at the
5 time the Final Decommissioning Plan for the
6 Baron Winds Phase II facility is filed with the
7 Secretary as a compliance filing, in accordance
8 with Certificate Condition 44. Ultimately, if
9 the overall financial assurance estimate (based
10 on review of the final Decommissioning Plan
11 compliance filing) is below the originally
12 established baseline amount of \$9,763,500, then
13 DPS Staff would not object to approval of a
14 financial assurance amount less than that
15 currently established in the Certificate.

16 Q. Please describe any reporting from Baron Winds
17 regarding consultations with the FAA and the
18 potential for requirement of FAA Notice of
19 Construction or Alteration for turbines and
20 other applicable facilities of Baron Winds Phase
21 II.

1 A. In the Phase II Amendment Petition, the
2 Petitioner reports the following: "Baron Winds
3 II consulted the FAA and local airports
4 regarding the Baron Winds Phase II layout and
5 turbine types under consideration.
6 Specifically, Baron Winds II submitted the
7 proposed Phase II layout to the FAA on March 31,
8 2022 and again on July 19, 2022 so that
9 aeronautical studies of locations of each
10 proposed turbine can be conducted under the
11 provisions of 49 USC § 44718. Baron Winds II
12 notified the Dansville Municipal Airport and the
13 Hornell Municipal Airport on August 31, 2022.
14 These submissions and letters are provided as
15 Appendix M. Determinations of No Hazard from the
16 FAA or responses from the municipal airports
17 were not received by the time of filing this
18 amendment.
19 The FAA provided notice to the Department of
20 Defense (DoD) Military Aviation and Installation
21 Assurance Siting Clearinghouse of Baron Winds

1 Phase II. Based on DoD's preliminary review,
2 they determined Baron Winds Phase II will have
3 an adverse impact on radar operations conducted
4 by the North American Aerospace Defense Command
5 for the Dansville Common Air Route Surveillance
6 Radar if constructed as proposed. At the request
7 of the DoD, Baron Winds II has entered into
8 discussions with the Department of the Air Force
9 to identify potential mitigation actions which
10 will be implemented prior to turbine erection.
11 The DoD has not indicated it formally objects to
12 the Project as proposed and also stated that
13 mitigation measures would resolve potential
14 concerns. Details of the mitigation will be
15 provided as a compliance filing. Baron Winds II
16 will use an Aircraft Detection Lighting System
17 on turbines at Baron Winds Phase II and will
18 seek approval of this system from the FAA."

19 Q. Does DPS Staff have any objections to the
20 approach for addressing FAA issues as described
21 above?

- 1 A. DPS Staff does not object to the proposed
2 approach and notes that any responses from the
3 municipal airports, the FAA Determinations, and
4 any federal permitting and approvals, including
5 any mitigation agreements, shall be filed with
6 the Secretary prior to turbine (or other
7 applicable facilities such as proposed ADLS
8 towers) erection.
- 9 Q. Does this conclude your testimony?
- 10 A. Yes.