

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 4, 2007

COMMISSIONER PRESENT:

Cheryl A. Buley

CASE 06-E-1424 - Petition of Jordanville Wind, LLC for a
Certificate of Public Convenience and Necessity
Pursuant to Section 68 of the Public Service
Law, and Approving a Lightened Regulatory
Regime.

ORDER APPROVING STAY

(Issued and Effective October 5, 2007)

INTRODUCTION

By Order issued August 23, 2007 in this proceeding, we granted Jordanville Wind, LLC (the Company) a Certificate of Public Convenience and Necessity, subject to conditions, and provided for lightened regulation of the Company as an electric corporation. Four organizations are seeking rehearing of various aspects of that Order: the Company; the Towns of Warren and Stark (the Towns); Friends of Renewable Energy; and Holy Trinity Monastery, Holy Trinity Seminary, and the Convent of St. Elizabeth. The Company and Towns also seek a stay of ordering clauses three, five, eight, and nine, pending resolution of the rehearing petitions.

Clause three prohibits the construction of 19 specified wind turbines. Clause five requires the Company to file with the Secretary, inter alia, final site plans approved by the Towns within 90 days of the issuance of the Order. Clause eight requires the Company to continue to cooperate in the development of, and comply with, the final historic resources mitigation plan and to present such plan for approval

to the Office of Parks, Recreation and Historic Preservation and involved agencies within 120 days following issuance of the Order. Clause nine requires the Company to work with the Towns to develop a program to identify and acquire scenic and open space easements and to file with the Secretary an implementation plan within 120 days of the issuance of the Order.

DISCUSSION AND CONCLUSION

Public Service Law §23(1) provides, in pertinent part:

Every order of the Commission shall take effect at a time therein specified and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission, unless such order be unauthorized by this chapter or any other act or be in violation of a provision of the constitution of the state or of the United States.

Thus, we have discretion to grant a stay of provisions contained in a previous Order when it appears appropriate to do so.

It appears that, in seeking a stay, the Company exercised its judgment as to how best to proceed with its project.¹ Clauses five, eight, and nine, impose material filing and consultation obligations on the Company. If a stay is not granted, these clauses would require the Company to expend considerable time and resources even while the Commission considers petitions for rehearing seeking relief from these very requirements. Under such circumstances, it is reasonable to stay the deadlines contained in these clauses, pending resolution of the several petitions for rehearing.

In contrast, clause three does not impose any such burdens on the Company. Rather than affirmatively requiring the

¹ Indeed, the Commission encourages the construction of environmentally compatible wind projects that comply with state law.

Company to act, clause three instead prohibits the Company from constructing 19 specified wind turbines. In view of this, a stay of clause three of the Order is not warranted.

It is ordered:

1. The deadlines contained in ordering clauses five, eight, and nine of the Order issued August 23, 2007 in this proceeding are stayed pending the resolution of the petitions for rehearing, as discussed in the body of this Order.
2. This proceeding is continued.

(SIGNED)

Commissioner