

# Stipulations

Mohawk Solar

March 1, 2019

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NEW YORK STATE BOARD ON ELECTRIC GENERATION  
SITING AND THE ENVIRONMENT

IN THE MATTER OF:

Case No. 17-F-0182

Application by Mohawk Solar LLC for a Certificate of  
Environmental Compatibility and Public Need Pursuant to  
Article 10 of the New York State Public Service Law for the  
Mohawk Solar Energy Facility in the Towns of  
Canajoharie and Minden, Montgomery County

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THE PARTIES HERETO stipulate and agree as follows:

- 1) The Mohawk Solar Energy Facility is discussed in an Article 10 Preliminary Scoping Statement (PSS) submitted to the New York State Board on Electric Generation Siting and the Environmental (Siting Board) on October 18, 2017 by Mohawk Solar LLC (Applicant). The term "Facility" as used herein includes photovoltaic (PV) solar panels and their rack/support systems; direct current (DC) and communications cables connecting the panels to inverters; the inverters, with their support platforms, control electronics, and step-up transformers; the buried and/or overhead alternating current (AC) medium voltage collector circuits; fencing and gates around each array of panels; access roads; temporary laydown/construction support areas; medium voltage-to-transmission voltage substation with associated equipment and fenced areas; a short length of transmission voltage line connecting the substation to a switchyard containing switching gear, associated equipment, and fenced area; a short length of transmission voltage line, with possible support poles to connect to the existing transmission line; and a possible operations and maintenance (O&M) building with fenced and parking/storage areas as well as any other improvements subject to the Siting Board's jurisdiction. Certification and construction of the Facility are referred to as the "Project."

These stipulations are governed by Section 163 of the Public Service Law and Section 1000.5 of the Siting Board's rules (16 NYCRR § 1000.5) and by any application requirements for federally delegated or approved environmental permits issued by the New York State Department of Environmental Conservation ("DEC" or "NYSDEC"), if applicable.

- 2) Signatories may limit their concurrence to one or more of the specific stipulations by so indicating in a notation next to their signature. A signature without any such notation shall indicate concurrence with the entire stipulation.
- 3) Signatories agree that, as of the date hereof, the studies outlined herein constitute all the necessary studies concerning the subject matter of these stipulations that the Applicant must provide to satisfy Section 164 of the Public Service Law. Except as provided herein, and in accordance with 1000.5(k) the signatories agree not to request the Applicant to provide additional studies concerning the subject matter of these stipulations in connection with the Article 10 proceeding.
- 4) Under any of these following circumstances the Applicant agrees to perform additional studies, evaluations or analyses:

- a) A new statute, regulation or final, non-reviewable judicial, federal, state or administrative regulation, ruling or order is adopted subsequent to the date of these stipulations which necessitates such additional studies, evaluations or analyses;
  - b) Mohawk Solar LLC proposes a substantial modification to the Facility or other inputs to the stipulated studies, evaluations, or analyses that will materially affect the results of the studies, evaluations or analyses;
  - c) The parties agree that the results of the stipulated studies, evaluations or analyses demonstrate a substantial need for additional or supplemental study, evaluation or analysis to the extent necessary to meet the requirements of the Article 10 regulations;
  - d) New information is discovered during the course of conducting, or as a result of, the stipulated studies, evaluations or analyses that indicates further evaluation or analysis is needed to determine the potential impacts of the Facility or the appropriate minimization or mitigation measures;
  - e) New, material and relevant information obtained independently of the stipulated studies, evaluations, or analyses demonstrates that the conduct of such studies, evaluations or analyses, or their results, will be substantially affected and should be modified or expanded to the extent necessary to meet the requirements of the Article 10 regulations; or
  - f) The Chairman of the Siting Board, the Siting Board, or the Presiding Examiner, whose ruling will be appealable to the Siting Board, or Associate Examiner presiding with respect to any proceedings concerning federally delegated environmental permits to be issued by New York State DEC, whose ruling will be appealable to the Commissioner of the DEC or the Siting Board, as the case may be, requires an additional study, evaluation, or analysis pursuant to 16 N.Y.C.R.R. § 1000.9.
- 5) After the Chairman of the Siting Board determines that the Application complies with Section 164 of the Public Service Law, if the signatories, in any of the circumstances listed above, reach agreement as to the implementation of any additional studies, evaluations, or analyses, such agreement may be set forth in a new stipulation, which may include the agreement of the Applicant to extend the statutory deadline for completion of the certification proceeding, but only if and only to the extent necessary to provide sufficient time to permit any such studies, evaluations, or analyses to be conducted and reviewed. Any of the signatories, in the circumstances listed in paragraph 4 shall not be restricted from pleading that the Applicant must provide additional studies evaluations or analyses related thereto during the Article 10 proceeding regarding the subject matter of these regulations.
- 6) GIS shapefiles used in development of the Application will be provided to requesting parties involved in the Stipulations process, as soon as possible prior to, or concurrent with, the submittal of the Application, to support the information and analyses in the Application. GIS shapefiles of all Project and resource locational information, analyses and graphic exhibit preparation, including but not limited to the GIS data outlined in Stipulations 22 and 23, will be provided directly to DPS and DEC Staff on CD-ROM along with paper copies of the Application.
- 7) The Applicant will consider the Map Sizes and Scales recommended by DPS in Attachment 1, Map Sizes and Scales document and will use these recommendations as a guideline regarding approximations of drawing scales to be used for Application submittal.

### **Stipulation 1 – 1001.1 Exhibit 1: General Requirements**

- 1. The Applicant agrees to provide the information required by 1001.1.
- 2. The Application will provide a list of acronyms used throughout the Application as an appendix to the Table of Contents.

## Stipulation 2 – 1001.2 Exhibit 2: Overview and Public Involvement

a) 1001.2(a) shall contain a brief description of the major components of the Facility, including all proposed PV panel locations and the footprint of all other Facility components. The Applicant agrees that the major components of the Facility, are to be described as follows:

- **Facility:** Proposed components will include: photovoltaic (PV) solar panels and their rack/support systems; direct current (DC) and communications cables connecting the panels to inverters; the inverters, with their support platforms, control electronics, and step-up transformers; the buried and/or overhead alternating current (AC) medium voltage collector circuits; fencing and gates around each array of panels; access roads; temporary laydown/construction support areas; medium voltage-to-transmission voltage substation with associated equipment and fenced areas; a short length of transmission voltage line connecting the substation to a switchyard containing switching gear, the substation, associated equipment, and fenced area; a short length of transmission voltage line, with possible support poles to connect to the existing transmission line; and a possible operations and maintenance (O&M) building with fenced and parking/storage areas as well as any other improvements subject to the Siting Board's jurisdiction (such as landscaping, stormwater management features, or other proposed mitigation measures).
- **Facility Site:** The portions of parcels proposed to host the Facility components that contain such components, which will be identified in the Application.
- **Facility Area:** The general area of interest identified by the Applicant and depicted on Figures 1 and 2 of the (PSS).

b) The Applicant agrees that a detailed table, which will provide a brief summary of all applicable exhibits required under 16 NYCRR Part 1001 will follow the organization of the Application's Table of Contents and will satisfy the requirements of Part 1001.2(b).

c) The submission under Part 1001.2(c) will contain a brief description of the public involvement program (PIP) plan conducted by the Applicant prior to submission of the Application and an identification of significant issues raised by the public and affected agencies during such program and the response of the Applicant to those issues including a summary of changes made to the proposal (if any) as a result of the public involvement program. Specific components of the PIP conducted as of the date of Application filing will be described, including:

- Opportunities for public involvement;
- Development and use of stakeholder list, including host and adjacent landowners;
- Consultation with affected agencies and stakeholders;
- Reference to existing website and toll-free phone number established for the Facility;
- Local project office location and established office hours;
- Timeline for responding to public comments received through these communication portals; and
- When public document repositories will be updated
- Applicant's efforts relating to language access
- Identification of any environmental justice areas
- Use of document repositories
- Factsheets on the Article 10 process and intervenor funding and other outreach materials

- Use of meeting logs tracking PIP activities, significant questions and/or issues raised by the public and the applicant's response or follow-up action
  - The PIP and all other submissions under Article 10 to remain available at the designated repositories and online (website) throughout the application review processes
- d) The Applicant agrees to provide the information required by 1001.2(d). Specifically, the Application will include:
- An updated stakeholder list that will be appended to the Application, including host and adjacent landowners and stakeholders identified during implementation of the public involvement program.
  - A discussion of how stakeholders have been identified and subsequently added to the list during the scoping, stipulation, and public involvement processes, and a description of how the list will be used for distribution and notification regarding Project milestones, including submittal of the Application
  - In addition to notifications required under 16 NYCRR 1000.6 and 1000.7, the Applicant will mail notice of the Application submittal to a project mailing list comprised of the updated stakeholders list, including host and adjacent landowners, and additional addresses received through public outreach. The notice will include information on the project generally and the Article 10 Application specifically. A copy of the mailing list and documentation indicating the dates and mailings that were made will be provided to the Secretary.
  - In addition to newspaper publication as required under 16 NYCRR 1000.7(a), the Applicant should publish notification about the project in at least one free local community newspaper circulated in the project and study areas, if available.
  - The Applicant agrees to provide a brief description of the public involvement program to be conducted by the Applicant after the submission of the Application, such as hearings, notification of construction activities, complaint resolution procedures (including the Complaint Resolution Plan described in Stipulation 12).
- e) The Applicant agrees to provide the information required by 1001.2(e).

### **Stipulation 3 – 1001.3 Exhibit 3: Location of Facilities**

Exhibit 3 shall contain maps, drawings and explanations showing the location of the proposed Facility, including all interconnections, and any ancillary features such as roads, which together comprise the proposed Major Electric Generating Facility, in relation to municipalities (county, city, town and village) and taxing jurisdictions associated with any part of the overall development proposal. Such maps, drawings and explanations shall include:

- a) United States Geological Survey (USGS) 1:24,000 topographic quadrangles printed at full scale (most recent topographic mapping available and obtained through the digital USGS Topo Map Service) showing:
- 1) The information required by 1001.3(a)(1). The required maps will depict all Facility components that can be clearly depicted at the required scale. More detail regarding specific Facility components (e.g. fencing and similar details) will be provided as part of the site plan drawings, as described in Stipulation 11(a). With respect to the substation, a separate map will be prepared (at an appropriate scale) to depict the collection substation, point of interconnect (POI) and associated voltage. With respect to alternatives, the mapping will depict those alternatives as defined at Stipulation 9(c). With respect to the operations & maintenance

(O&M) building, any preliminary locations under consideration will be identified in the Application. See also Stipulation 11, which references inclusion of a typical drawing(s) for the O&M building.

- 2) The Applicant agrees to provide the information required by 1001.3(a)(2)
  - 3) The Applicant agrees to provide the information required by 1001.3(a)(3)
  - 4) The Parties agree that this section is not applicable to the Facility.
  - 5) The Facility will be subject to a number of studies in support of the Application. The various studies undertaken in support of the Application will apply appropriate, resource-specific study areas, which will be described in this section of the Application along with a reference to the exhibit in which more information is provided.
- b) The Applicant agrees to provide the information required by 1001.3(b). With respect to alternative locations, the mapping will not depict alternative locations because as indicated below in Stipulation 9(b), alternative locations that include areas beyond what is owned by or under option to the Applicant are unavailable. The Applicant will also provide the latitude, longitude, and ground surface elevation, based on publicly available data, of all proposed PV panel arrays, measured in feet above sea level.
- c) The Applicant agrees to provide the information required by 1001.3(c).

#### **Stipulation 4 – 1001.4 Exhibit 4: Land Use**

The Application will address the Project's impact on land uses, and more specifically agriculture, in the Study Area. This will include a discussion of current use and agricultural productivity of farmland within the Facility Site. The Applicant will also include a discussion of recent trends (over the last 20 years) in land use changes, with specific focus on factors contributing to the conversion of farmland within a five-mile radius of the Facility. The Applicant will discuss the Facility's potential effect on agricultural viability of lands within a five-mile-radius, including the availability of farmland for existing farm operations, the potential increase in rental rates of farmland, and the potential increase in the price of farmland. The Applicant intends to conduct interviews with landowners/farm operators within the Facility Site and review readily available historical data on trends in farmland use and acreage in Montgomery County. Information may be supplemented with information obtained from the County Soil and Water Conservation District and County Planning department. The Application will also describe measures during both construction and operation of the Facility that will be implemented to avoid and minimize impacts to on-site soils and adjacent agricultural uses.

Exhibit 4 shall contain the following information:

a) 1001.4(a) shall include:

- A map of existing land use within a 2-mile radius of the Facility. Land use will be depicted using the three-digit classification codes of the New York Office of Real Property Services (NYSORPS), which are included in parcel data obtained from Montgomery County. To the extent the Facility Site includes "vacant land" classifications, the Applicant will provide additional information on the existing use of such land based on consultations with the respective landowners or municipal officials.
- A separate map of land enrolled in NYS Agricultural Districts, conservation programs, NYS 480-a forest management programs, or similar long-term program enrollments within or adjoining the Facility site will be included in the Application.



- b) 1001.4(b) shall include mapping of existing overhead and underground major transmission facilities for electric, gas or telecommunications within a 2-mile radius of all Facility components, based on coordination with local utilities, private firms that maintain databases with this information, and data on natural gas and oil wells obtained from the NYSDEC and NYDPS, and to the extent that such information is made available to the Applicant. The map shall identify all crossings of existing utility lines by the proposed electric facilities. Additionally, any gas lines or wells within the Facility Area shall be identified on this map, and an associated legend shall be included listing all known owners of existing utilities.
- c) 1001.4(c) shall include mapping of all properties containing proposed electric generating facilities and other facilities, components or related facilities, and all properties adjoining such properties. This map(s) will show property lines, land use, tax parcel number, and owner of record of each property, and any publicly known proposed land use for any of these parcels. Parcels and land use data will be obtained from Montgomery County or the host Towns.
- d) 1001.4(d) shall include:
  - Mapping depicting existing and proposed zoning districts within a 2-mile radius of the Facility, based on data obtained from local governments.
  - The Applicant will: review zoning regulations for each of the towns where Facility components would be located; provide a description of permitted and prohibited uses within each zone; and provide citations to zoning and other land use regulations, requirements, designations and classifications related to land use regulations.
- e) 1001.4(e) shall include a review of the Comprehensive Plans for the Town of Canajoharie (adopted in 1992) and the Town of Minden (adopted in 2012), and Montgomery County (currently developing a comprehensive plan), and the consistency of the proposed Facility with such plans will be assessed.
- f) The Applicant agrees to provide the information required by 1001.4(f).
- g) The Applicant agrees to provide the information required by 1001.4(g), where identified items are applicable. There are no designated Coastal Areas or Local Waterfront Revitalization Areas within a 2-mile radius of the Facility.
- h) The Applicant agrees to provide the information required by 1001.4(h), which shall include:
  - Maps showing recreation areas and other sensitive land uses known the Applicant within a 2-mile radius of the Facility, including the Erie Canalway National Heritage Corridor, and the Erie Canalway Trail.
  - A summary of the nature of potential environmental impacts of Facility construction and operation on such land uses, including how such impacts have been avoided or, if unavoidable, minimized or mitigated.
  - The Facility's Visual Impact Assessment (as will be presented in Exhibit 24) will also identify visually sensitive resources, including recreational and other sensitive land uses that may be affected by potential visibility of the Facility. This will include visually sensitive resources of potential statewide significance within 5 miles of the proposed Facility, and potentially significant local resources within a 2-mile visual study area.
- i) The Applicant agrees to provide the information required by 1001.4(i), including relevant State planning documents such as the 2016 New York Open Space Plan (OSP), the New York State Historic Preservation Plan

2015-2020, the Statewide Comprehensive Outdoor Recreation Plan 2014-2019, the New York State Office of Parks, Recreation and Historic Preservation Sustainability Plan (April 22, 2009), the 2014 NY Rising Countywide Resiliency (NYRCR) Montgomery County Resiliency Plan, the Montgomery County Draft 2017 Agricultural and Farmland Protection Plan, and the Erie Canalway Trail Preservation and Management Plan. The Application will include a review of each of the above plans, and will provide electronic versions/links to such plans (limited to those portions of the plans obtained by/provided to the Applicant). The Application will also discuss whether the proposed Facility is consistent with these Plans. In addition, the Facility Area is traversed by major electric and gas transmission facilities. To the extent known by the Applicant, the Article 10 Application will include consideration of operational requirements and future development proposals for these transmission facilities.

- j) An assessment of compatibility of any above-ground collection lines with existing and proposed land uses within 300 feet of the interconnect lines will be presented in the Application. To the extent land use impact is quantified in other exhibits (e.g., agricultural land, wetlands, forest) such information will be summarized in this subpart.
- k) The Applicant agrees to provide the information required by 1001.4(k)
- l) 1001.4(l): The Facility Area is not located within a designated coastal area or in direct proximity of a designated inland waterway. Therefore, conformance with the Coastal Zone Management Act or the Waterfront Revitalization of Coastal Areas and Inland Waterways Act is not applicable.
- m) 1001.4(m) shall include: Aerial photographs within a 1-mile radius of the Facility will be included with the Application. This mapping will likely be prepared using 0.5-meter resolution natural color orthoimagery from the USDA's National Agriculture Imagery Program (NAIP) captured during the 2015 growing season. The aerial photograph mapping will be depicted on multiple 8.5x11 inch or 11x17 inch sheets at a scale that will allow the identification and discrimination of natural and cultural features.
- n) 1001.4(n) shall include: Mapping depicting Facility components overlaid on aerial photographs, along with the proposed limits of vegetation and soils disturbance. These maps will be created using ArcGIS software. Line symbols will be used to depict the centerlines of proposed access roads and electrical collection lines; and polygon symbols to depict the PV panels, inverters, substation, POI switching station, operation and maintenance buildings, and construction laydown areas. Buffers around each Facility component will show the limits of clearing and disturbance required. This mapping will likely be prepared using 0.5-meter resolution natural color orthoimagery from the USDA's NAIP captured during the 2015 growing season.
- o) 1001.4(o): It is anticipated that mapping associated with (n) above will be prepared using 0.5-meter resolution natural color orthoimagery from the USDA's NAIP captured during the 2015 growing season. The ultimate source will be identified in the Application. In the event that Applicant determines changes to land use since the date of aerial photography, additional information to depict and describe changed conditions will be provided, such as overlay to aerial photography, and standard ground-level photography depicting and identifying changed conditions.
- p) The Applicant agrees to provide the information required by 1001.4(p). Sources of information used to describe community character will include local municipal master plans and county master plans, among other sources. This will include a discussion of current use and agricultural productivity within the Facility Site.

## **Stipulation 5 – 1001.5 Exhibit 5: Electric System Effects**

Exhibit 5 shall contain the following information:

- a) The Applicant agrees to provide the information required by 1001.5(a). This section of Exhibit 5 will also discuss when the Applicant anticipates entering the NYISO class year study.

- b) 1001.5(b) shall include an analysis and/or statement of the impact of the proposed Facility on reliability in the state of New York as evaluated in the System Reliability Impact Study (SRIS). The SRIS will be submitted and filed under separate confidential cover pursuant to Section 87(2)(d) of the New York State Public Officers Law and the Commission's regulations and 16 NYCRR 6-1.4.
- c) 1001.5(c) shall include a discussion of the impacts of the Facility on ancillary services as evaluated in the SRIS.
- d) 1001.5(d) shall include a summary of reasonable alternatives that would mitigate adverse reliability impacts (if such impacts are found to be possible) as evaluated in the SRIS.
- e) 1001.5(e) shall include an estimate of the increase or decrease in the total transfer capacity across each affected interface based on analysis in the SRIS. If a forecasted reduction in transfer capability across affected interfaces violates reliability requirements, an evaluation of reasonable corrective measures that could be employed to mitigate or eliminate said reduction will be conducted.
- f) The Applicant agrees to provide the information required by 1001.5(f)
- g) There is no thermal component to the Facility, and therefore the parties agree that the information required by 1001.5(g) is not applicable and will not be addressed in the Application.
- h) The Applicant agrees to provide the information required by 1001.5(h).
- i) The Applicant agrees to provide the information required by 1001.5(i).
- j) The Applicant agrees to provide the information required by 1001.5(j).
- k) The Applicant agrees to provide the information required by 1001.5(k).
- l) The Applicant agrees to provide the information required by 1001.5(l).
- m) Solar energy facilities, such as the proposed Facility, are not suitable for blackstart because there is no guarantee that the Facility will be generating electricity at a sufficient level at a given time. Therefore, the parties agree that the Application will not address blackstart.
- n) The information required by 1001.5(b) will be provided through the SRIS, the development of which included consultation with NYISO and the local transmission owner.

### **Stipulation 6 – 1001.6 Exhibit 6: Wind Power Facilities**

The proposed Facility is not a wind power facility, and as such, the requirements of 1001.6 are not applicable and will not be included in the Article 10 Application.

### **Stipulation 7 – 1001.7 Exhibit 7: Natural Gas Power Facilities**

The proposed Facility is not a natural gas power facility, and as such, the requirements of 1001.7 are not applicable and will not be included in the Article 10 Application.

### **Stipulation 8 – 1001.8 Exhibit 8: Electric System Production Modeling**

The Applicant agrees to provide the information required by 1001.8, and to conduct the required consultation with DPS and DEC. The Applicant will seek the requisite trade secret protection, pursuant to NY Public Officer's Law Section 87(2)(d) and 16 NYCRR 6-1.3, for digital copies of all inputs used in the simulations required in subdivision (a) of this Exhibit.

## Stipulation 9 – 1001.9 Exhibit 9: Alternatives

Exhibit 9 shall contain the following information:

- a) An identification and description of reasonable and available alternate location sites for the proposed Facility, including alternative layouts on nonagricultural land, that will necessarily be limited to sites owned by or under option to Applicant or its affiliates, as authorized by 16 NYCRR § 1001.9(a). This section will also include a discussion of the Applicant's process for selecting the lease sites and attempts to secure nonagricultural land. However, the Applicant does not own or have an option to acquire any other reasonable or available alternate sites that are suitable for development of a solar project comparable to the Facility. Although Avangrid Renewables, LLC is currently developing wind energy projects in other locations in New York State, those sites are not reasonable alternatives because they were selected for potential wind energy development. These sites have specific attributes which make them suitable for wind development, including an adequate wind resource, elevation (topography), proximity to interconnection, and willing land lease participants, and are not necessarily reasonable for solar energy development. Moreover, these locations are not "available" to site solar facilities because they are already under lease or option and it is quite often the case that such lease/option agreements that are entered into, are done so for a specific technology (i.e., wind energy).
- b) As indicated in subdivision (a), alternative locations that include areas beyond those that are owned by or under option to the Applicant or its affiliates, and reasonable and compatible for solar development are unavailable. Further, it is not practicable to procure land contracts, perform environmental and engineering studies, enter into and progress through multiple interconnection permit processes, and conduct community outreach for alternative Facility locations not reasonable for solar development. Therefore, the parties agree that the Application will not include a fully developed evaluation of comparative advantages and disadvantages of alternate locations. However, the general site selection process and relevant information/analyses associated with the Facility will be provided in relation to Exhibit 9(b)(1) through (11).
- c) The Applicant's private landowner agreements strictly limit the use of land to a solar power project, and as such, do not allow for the siting of other alternative energy production facilities (e.g., wind, hydro, biomass, or fossil fuel). Accordingly, the parties agree that other power generation technologies are not reasonable alternatives and will not be considered in the Application. Rather, 1001.9(c) of the Application will provide information on the Facility design and technology including:
  - 1) The general arrangement and design (detailed information regarding the arrangement and design of the Facility will be provided in Exhibit 3 as described above and required by 1001.3).
  - 2) PV panel technology appropriate to utility-scale facilities.
  - 3) Alternate scale and magnitude of the facilities in the context of the interconnection position (i.e., maximum generating capacity of 90 MW) and information on the economic benefits to local communities related to Facility scale and magnitude.
  - 4) The proposed Facility is not a wind power facility, and as such, the requirements of 1001.9(c)(4) are not applicable. Notwithstanding this, the Applicant agrees to provide in the Application a discussion of alternative layouts of Facility components within the Facility Site, including alternative layouts for PV solar panels and their rack/support systems. This discussion will include a comparative assessment of the environmental impacts, including a discussion of vegetative clearing, a discussion and comparison of known, estimated, and expected impacts to wildlife and habitat at all alternative sites and layouts, and the associated impacts under each alternative analyzed. This assessment of alternative layouts will include a

discussion of how alternative layouts for the Facility could help to avoid, minimize, or mitigate environmental impacts from the Project.

- 5) The Applicant agrees to provide the information required by 1001.9(c)(5).
- d) The Applicant agrees to provide the information required by 1001.9(d).
- e) The Applicant agrees to provide the information required by 1001.9(e).
- f) The Applicant agrees to provide the information required by 1001.9(f). The parties agree that the “no action/no build” alternative refers to not building the Facility.
- g) The Applicant agrees to provide the information required by 1001.9(g).
- h) Due to the nature of the Facility (solar energy), the parties agree that source and demand-reducing alternatives will not be evaluated in the Application.
- i) The Applicant agrees to provide the information required by 1001.9(i).

### **Stipulation 10 – 1001.10 Exhibit 10: Consistency with Energy Planning Objectives**

The Applicant agrees to provide the information required by 1001.10, including reference to the 2015 State Energy Plan and an explanation on consistency with the recently adopted New York State Clean Energy Standard.

### **Stipulation 11 – 1001.11 Exhibit 11: Preliminary Design Drawings**

All drawings prepared in support of Exhibit 11 of the Article 10 Application will be prepared using computer software (e.g., AutoCAD, MicroStation), will be labeled “preliminary” and/or “not for construction purposes”, and will be prepared under the direction of a professional engineer, landscape architect, or architect who is licensed and registered in New York State. Four, full size copies of the drawing set, utilizing a common engineering scale, will be provided to DPS Staff. A single, full size drawing set will also be provided to the NYSDEC Central Office and Region 4 Staff (total of two full sized sets provided to NYS DEC), and to NYS Department of Agriculture and Markets Staff. All other printed copies (included with the Application) will be at a legible and reduced size (i.e., 11”x17”), also utilizing a common engineering scale. Additionally, a CD-ROM containing electronic PDF files will be submitted to DPS, DEC, and DAM Staff. Exhibit 11 shall contain:

- a) Site plan drawings of all Facility components at a common engineering scale as listed at 1001.11(a). Site boundaries and adjoining property will be depicted using publicly available data. The drawings will also depict all delineated wetlands (including the 100-foot adjacent areas) and streams. Specific to construction of a solar facility, the Site Plan drawings will include the following proposed features:
  - PV panel locations, and associated mounting features;
  - Access roads (temporary and permanent);
  - Perimeter fencing;
  - Turn-around areas to be used during construction;
  - Grading showing proposed final contours;
  - Electric collection lines – the required number of circuits for each collection line route will be indicated on site plans; also, overhead (if any) and underground cable routes will be differentiated with specific line-types;
  - Transmission line;

- Approximate limits of disturbance for all Facility components (PV panels, inverters, access roads, buildings, electric lines, substation, etc.) based on impact assumptions;
  - Clearing limits for all Facility components (PV panels, inverters, access roads, fences, buildings, electric lines, etc.) based on impact assumptions;
  - Indication of permanent Right-of-Way (ROW) for all electric cable installations;
  - Locations that will utilize trenchless methods of electric cable installations (including layout of approximate laydown areas and trenchless installation distances);
  - Applicant's proposed setbacks from occupied structures, property lines and easements, existing overhead electric lines, gas transmission pipelines and associated easements, and roads;
  - Locations of laydown areas to be used for equipment storage and parking areas;
  - Any back-up generators and fuel storage areas;
  - Collection substation outline, including local setbacks, access driveway and fence line;
  - POI switchyard outline, including local setbacks, access driveway and fence line; and
  - Preliminary location of the O&M building, if needed and associated local setbacks, access driveway, parking area and any associated septic or water systems;
- b) The Applicant agrees to provide the information required by 1001.11(b).
- c) Soil type and depth to bedrock information will be provided based on publicly available data and test borings at representative locations within the Facility Area. Preliminary cut and fill calculations will be included along with a general description of typical cut and fill scenarios. Exhibit 21 of the Application will provide this information as well as boring logs and maps indicating location of the pre-Application test borings. Existing and proposed contours and any permanent stormwater retention areas (if known at the time of Application submittal) will be shown on the Preliminary Design Drawings.
- d) Based on the proposed Facility layout and the results of various analyses, the Application will discuss the need for landscaping in the form of visual screening, and prepare conceptual screening plans if needed. To determine those areas where trees may be removed, the Facility footprint will be depicted on recent aerial imagery, and the acreage of tree removal will be discussed in the Application. However, an on-site inventory and survey of individual trees to be removed will not be included in the Application. The Application will also include reference to contingency measures to be developed to address potential visual screening needs for mitigation of impacts at historic resources, community or cultural sites, visually sensitive resources, or public use areas, if such measures are proposed and outlined in Exhibit 20 and/or 24.
- e) A Lighting Plan showing type, location, and height of installation of proposed exterior lighting fixtures for all Facility components, and an indication of the measures to be taken to prevent unnecessary light trespass beyond the Facility property line, will be included in the Article 10 Application. Lighting specifications for lighting associated with the substation and O&M building (if needed) will also be provided in the Article 10 Application. Manufacturer cut sheets of proposed light fixtures will be provided in the Application, if available.
- f) Architectural drawings for the O&M building, switchyard, and perimeter fencing (including the type(s) of site perimeter fencing to be installed around Facility sites), as applicable, will be provided in final or preliminary form, depending on availability, as part of the Application. For the point of interconnection switchyard, a typical drawing of the improvements to the existing interconnection substation will be included.
- g) The Application/Preliminary Design Drawings will include typical details for Facility components including access roads, buried and above-ground interconnect lines, PV panels and support structures, inverters, stormwater management features, laydown areas, as well as any other improvements subject to the Siting Board's jurisdiction.

- i. Typical PV panel details, including the configuration of typical PV panel arrays.
  - ii. Plan and sections of underground facilities will be provided, including single and multiple-circuit layouts with dimensions of proposed depth and level of cover, separation requirements between circuits, clearing width limits for construction and operation of the Facility, limits of disturbance, and required permanent ROW.
  - iii. The Application will include elevation plans for overhead facilities (collection and transmission lines [if applicable]) including height above grade, structure layouts, clearing width limits for construction and operation of the Facility, and permanent ROW widths, average span lengths for each proposed layout, and structure separation requirements (for installations containing more than one pole, etc.) for all single and multiple-circuit layouts.
  - iv. Typical support structures (piers, etc., including dimensions) to be used for solar panel installations
  - v. Typical details of any potential protection measures of existing pipelines; these drawings will show the proposed Facilities and any associated typical or specific protection measure installations relative to existing pipeline installations (separations and crossing methods of existing pipelines will be depicted in these details).
  - vi. A circuit map indicating overhead and underground installations and the number of circuits per proposed run.
  - vii. Typical details associated with trenchless installations, including typical staging areas, construction machinery arrangements, and bore pits.
  - viii. Examples of typical technical and safety manuals for the types of solar panels that are anticipated to be used in the Facility will be provided at the time of Application.
- h) A single line drawing of the POI switchyard will be included in the SRIS, which will be submitted with the Article 10 Application. The general arrangement of the POI switchyard will also be included with the Article 10 Application.
- i) A list of engineering codes, standards, guidelines and practices that the Applicant intends to conform with when planning, designing, constructing, operating and maintaining the Facility.
- j) Details and descriptions of any protective measures (if any) for Facility components within or adjacent to "Flood Hazard Areas" will be included in the Application. If this information is not available during Application filing, a description of potential measures to be utilized will be included.

### **Stipulation 12– 1001.12 Exhibit 12: Construction**

- a) The Applicant agrees to provide the information required by 1001.12(a), which will include a discussion of the Applicant's proposed environmental compliance monitoring plan (e.g., duties of the monitor(s) and reporting responsibilities) and a description of how the Applicant will ensure conformance with applicable design, engineering, and installation standards, including construction codes applicable to the solar panel structures. The Applicant will include a description of the procedures it will follow to notify the public regarding construction activities and schedule.
- b) The Applicant agrees to provide the information required by 1001.12(b).
- c) The Applicant agrees to provide the information required by 1001.12(c). Additionally, the Application will include a section regarding consultations with pipeline owners operating gas pipelines in the Facility Area. The following will be included in this section, incorporating and listing any requirements or recommendations from the pipeline owners operating gas pipelines in the Facility Area:

- A description of design and proper layout of the proposed Facility to avoid effects on existing pipeline integrity and right-of-way; and
  - An explanation of potential protection measures of pipelines, indicating agreement by specific pipeline owners; typical details of any potential protection measures showing proposed Facilities relative to existing pipeline locations will also be included as part of the drawings required by Stipulation 1001.11(g). Final design of any layouts and protection measures regarding existing pipelines shall be submitted to DPS as a compliance item upon completion of design.
- d) The Applicant will prepare a formal complaint resolution plan which includes specification of commitments for addressing public complaints, and procedures for dispute resolution during Project construction and operation. The complaint resolution plan will be easily accessed, tracked to time of resolution, include input from construction managers as appropriate, and will clearly define responsibilities for issue resolution. The complaint process will have assigned personnel to track the resolution of the complaint from the time of receipt, verification, resolution development, implementation and confirmation of resolution. In addition, the complaint resolution plan will:
- Include a procedure for transmittal of complaint logs to DPS. The complaint log should list all complaints and resolutions, to be maintained during construction and operation of the Facility and will be available to DPS upon request;
  - Describe actions the Applicant will take if a complaint remains unresolved after all steps are followed;
  - Indicate whether complaints will be accepted from the toll-free line, as well as electronically through e-mail and the project website. In addition, complaint handling needs to address both written and verbal complaints. Verbal complaints received during construction need to be converted to written documents that can be tracked by the certificate holder and contractors and be reported to DPS Staff; and
  - Identify and include any procedures or protocols that may be unique to each phase of the project (e.g. construction, operation, decommissioning of facilities) or complaint type (e.g. noise, degraded television service). For example, during construction, complaint calls need to be handled locally and quickly.

### **Stipulation 13– 1001.13 Exhibit 13: Real Property**

Exhibit 13 shall contain the following information:

- a) The Application will include a tax parcel map, which is a reasonable approach based on the extensive area included within the Facility Site. The proposed Facility Site parcels have a combined area of approximately 1,000 acres, an extensive area similar in size to areas required for 25-50 MW wind facilities. As such, the Applicant finds the creation of a map based on publicly available tax-parcel mapping reasonable, particularly because the "tax parcel map" proposed in the PSS will contain the necessary elements required by the regulation. The tax parcel map of the Facility Site will depict the following:
- The tax parcel IDs for land parcels that are part of, and adjacent to, the Facility Site;
  - Current land use and zoning for the parcels that are part of, and adjacent to, the Facility Site;
  - Necessary access and utility easements for the Facility;
  - Proposed laydown area(s) and O&M building;
  - Public roads planned for use as access to the Facility Site; and
  - An identification of properties proposed to be acquired in fee ownership by the Applicant



The data for this map will be obtained from Montgomery County GIS (parcels) along with the United States Census Bureau (TIGER/line files) and the NYS GIS Clearinghouse. These data will also be used to identify owners of record of all parcels included within the Facility Site and for all adjacent properties (such information may be depicted on the maps and/or included on associated tables).

- b) Maps showing all proposed interconnection facilities and associated access drives/laydown areas, including land owned by or under contract to the Applicant.
- c) The Applicant agrees to provide the information required by 1001.13(c). The Applicant will identify crossing and easement rights for public roads in the Application.
- d) The Applicant agrees to provide the information required by 1001.13(d)
- e) An identification of any improvement district extensions necessary, if applicable, per 1001.13(e).

#### **Stipulation 14– 1001.14 Exhibit 14: Cost of Facilities**

- a) 1001.14(a) requires that Exhibit 14 shall contain an estimate of the total capital costs of the Project as presented in the Application. Capital costs presented in the Application will include development costs, construction design and planning, equipment costs, and construction costs, and will be broken down by:
  - PV Panels/Equipment
  - Engineering
  - Construction (including contingency)
  - Insurance
  - Development (including contingency)

However, this information is proprietary and typically retained as trade secret. Therefore, the Applicant will seek the requisite trade secret protection for this information pursuant to NY Public Officer's Law Section 87(2)(d) and 16 NYCRR 6-1.3.

- b) The Article 10 Application will include a cost estimate based on the Applicant's historical experience, historical and current price quotes, and solar industry standards.
- c) The Applicant will provide an internal work paper that describes the assumptions in estimating the total capital costs as described above in (a). However, this information is proprietary, confidential and consists of Company trade secrets that are not provided to the public. Therefore, the Applicant will submit this under separate and confidential cover, and will seek the requisite trade secret protection for this information pursuant to NY Public Officer's Law Section 87(2)(d) and 16 NYCRR 6-1.3.

#### **Stipulation 15– 1001.15 Exhibit 15: Public Health and Safety**

The Application will include a statement and evaluation that identifies, describes, and discusses all potential significant adverse impacts of the construction and operation of the facility, the interconnections, and related facilities on the environment, public health, and safety, at a level of detail that reflects the severity of the impacts and the reasonable likelihood of their occurrence, identifies the current applicable statutory and regulatory framework. To address those topics, Exhibit 15 shall contain:

- a) The information required by 1001.15(a). If the Facility will have on-site wastewater treatment, the Applicant will consult NYSDOH's Capital District Office regarding any potential approvals required for any on-site treatment of wastewater or sanitary waters, and that information will be included in the Application.

- b) The information required by 1001.15(b).
- c) The information required by 1001.15(c).
- d) The information required by 1001.15(d).
- e) 1001.15(e) is not applicable to the Facility
- f) Public health and safety-related maps as described in 1001.15(f) will be prepared using data from the NYS GIS Clearinghouse, FEMA, local municipalities, NYSDEC, NYSDOH, and the USGS, as well as local sources for emergency response resources.
- g) The information required by 1001.15(g).
- h) The information required by 1001.15(h).
- i) The information required by 1001.15(i).
- j) The information required by 1001.15(j).
- k) The information required by 1001.15(k).
- l) The information required by 1001.15(l).

### **Stipulation 16– 1001.16 Exhibit 16: Pollution Control Facilities**

The proposed Facility will not require pollution control facilities, and as such, the requirements of 1001.16 are not applicable and will not be included in the Article 10 Application. To the extent temporary emissions sources are needed during construction this will be addressed in Exhibit 17 of the Application. Please see Stipulation 23(c)(1) for information on the SPDES General Permit for construction.

### **Stipulation 17– 1001.17 Exhibit 17: Air Emissions**

Exhibit 17 shall contain a discussion of the anticipated air quality benefits from the Facility. The Application will also discuss impacts to air quality expected to result from the proposed Facility's construction and operation, including fugitive dust and emissions from construction vehicles, and fuel-fired generators, and identification of appropriate control and mitigation measures to minimize adverse impacts. The Application shall identify any air permitting and registration requirements.

- a) The Applicant agrees to provide the information required by 1001.17(a).
- b) The Applicant agrees to provide the information required by 1001.17(b).
- c) Solar generation facilities generate electricity without combusting fuel or releasing pollutants into the atmosphere. Therefore, a table will be provided to demonstrate the emissions that would be offset by the Facility's operation and a discussion of the Facility's benefit to clean air will be included.
- d) The Applicant agrees to provide the information required by 1001.17(d).
- e) No ammonia will be stored onsite during Facility construction or operation. Therefore, the offsite consequence analysis required by 1001.17(e) is not applicable to the Facility and will not be included in the Article 10 Application.

### **Stipulation 18– 1001.18 Exhibit 18: Safety and Security**

The Applicant agrees to provide the information required by 1001.18, including a description of any fire containment system for a fire in the substation, and consultation with relevant stakeholders and local communities, first responders, and emergency service providers regarding construction start dates and the safety plans (i.e.,

Emergency Action Plan, Site Security Plan). For purposes of developing emergency response plans and notification procedures, the Applicant will consult with relevant local, county, and State emergency responders and agencies.

## **Stipulation 19– 1001.19 Exhibit 19: Noise and Vibration**

Compared with all other types of power generation facilities, the potential for any kind of community noise impact from a photovoltaic solar energy project is nearly non-existent. Moreover, such facilities have the unique characteristic of only operating during daylight hours when noise is much less likely to be an issue in the first place. Any possible concerns about the sound emissions from a solar project are largely confined to the step-up transformer in the new substation, electrical inverters within the various solar panel fields and some short-lived activities during construction. There are no vibration issues associated with the operation of such a facility.

Exhibit 19 shall contain:

### *An Impact Assessment of the Substation Sound Emissions*

The power generated by the project will be collected and routed to a step-up transformer in a new substation associated with the project. The potential noise impact from any substation is essentially a matter of how prominent and audible the tonal sound emissions from the transformer(s) are at the nearest residences. Tones at harmonics of 60 Hz are generated by all transformers and are always noticeable as a hum, or buzz close to the unit; however, the prominence of these tonal peaks diminish quickly with distance and disappear into the background as that distance increases. A noise impact assessment, as outlined below, will be carried out to evaluate the projected sound emissions from the proposed substation.

#### 1) Sensitive Sound Receptor Map

As part of the Article 10 Application, the Applicant will prepare and submit a map showing the project's substation and step up transformer in relation to the nearest potentially sensitive sound receptors (residences, schools, hospitals, etc.).

#### 2) Ambient Pre-Construction Baseline Noise Surveys

Background sound monitoring surveys during both winter/leaf-off and summer/leaf-on conditions will be carried out to measure the existing sound levels at positions representative of the nearest potentially sensitive receptors to the project substation as the first step in a modified Composite Noise Rating (CNR) analysis to establish the baseline background conditions. The full and 1/3 octave band spectra on a continuous 10 minute time resolution will be measured over at least a 7-day period and will record, at a minimum, the L90, Leq, Lmin and Lmax levels. The presence of any existing tones that might be present at the receptor points will be evaluated per Annex K *Objective method for assessing the audibility of tones in noise* of ISO 1996-2:2017(E) Acoustics – Description, measurement and assessment of environmental noise, 2017. This method defines prominent discrete tones in terms of the prominence of the 1/3 octave band containing the suspected tone above the average of the neighboring 1/3 octave bands. Prominence/perceptibility is frequency dependent and the thresholds are generally taken as 15 dB for tones below 250 Hz, 8 dB for tones between 250 and 400 Hz and 5 dB for all higher frequencies.

#### 3) Modeling of Operational Sound Levels

The octave band sound power level spectrum of the proposed step up transformer will be calculated or otherwise obtained. This power level spectrum will then be conservatively projected to the nearest potentially sensitive

receptors around the substation in order to obtain an initial CNR ranking for each location. An A-weighted sound level contour map out to 30 dBA will be provided with 1 dB resolution.

#### 4) Impact Assessment

The study will determine subsequent corrections to the initial CNR ranking at each design point based on the measured average octave band L90 daytime background sound level (since the project will only be operational during daylight hours), seasonality, character, and attitudinal adjustments. A final CNR rating for each location will be determined and used to determine if noise mitigation, such as a local noise barrier for the transformer or a low noise core, would be appropriate to maintain a CNR rating of C (no reaction to sporadic complaints) or less.

##### *An Assessment of the Potential Noise Impact from Inverters*

Apart from the substation transformer, the only other sound sources of any possible significance are the electrical inverters used to convert locally generated DC current into AC power that is then routed to the substation through underground collector cables. Typically, these electrical cabinets are situated within and near the center of each solar field, or independent group of solar panels, so they are usually a considerable distance from the perimeter fence and potential neighbors beyond. In any event, the sound emissions from the proposed inverters will be quantitatively evaluated for any potential community noise impact by modeling the sound emissions to the extent feasible using preliminary site plans or other information on the probable number and locations of inverters. It should be noted that the exact location of every inverter is not typically known or defined early in the design process, but the sound analysis will make use of the best available information at the time of the assessment.

##### *An Assessment of the Potential Noise Impact from Construction Noise*

In contrast to other forms of power generation, the duration of the construction phase for a PV solar facility is remarkably short, and the activities that generate any significant noise are few. Where a fossil fuel or wind generating project would require earthworks and the pouring of concrete foundations, construction of a solar facility largely involves the installation of mounting posts for the panel racks, which generally follow the existing topography.

The Article 10 Application will include a description of the planned construction process, such as whether the mounting posts will be driven into the ground or screwed, and an evaluation of the possibility of noise-related disturbance from any construction phase or activity.

#### **Stipulation 20– 1001.20 Exhibit 20: Cultural Resources**

Consistent with 16 NYCRR § 1001.20, the Applicant has initiated consultation with the NYSOPRHP to develop the scope and methodology for cultural resources studies for the Facility. This consultation included preparation of a Phase 1A Archaeological Resources Survey and Phase 1B Work Plan and a Phase 1A Historic Architectural Resources Survey Work Plan. The NYSOPRHP concurred with the details set forth in both work plans (please note that both work plans were also included in the PSS as Appendices D and E, respectively). As such, the parties agree that the scope and methodology outlined in the Phase 1A Cultural Resources Investigation and Work Plans provided in the PSS is sufficient to meet the requirements of 16 NYCRR 1001.20. Further, the parties agree that the work plans will be implemented as established by the Applicant through consultation with the NYSOPRHP.

In relation to the agreed upon work plans, the Applicant agrees to provide the information required by 1001.20. Exhibit 20 will also include a proposed Cultural Resources Mitigation Plan, if necessary. This Exhibit will

also discuss the reasonable avoidance, minimization and mitigation options available to address potential impacts from the Facility on cultural resources.

### **Stipulation 21– 1001.21 Exhibit 21: Geology, Seismology, and Soils**

Exhibit 21 shall contain:

- a) A map delineating existing slopes (0-3%, 3-8%, 8-15%, 15-25%, 25-35%, 35% and over) on and within the drainage area potentially influenced by the Facility Site and interconnections will be prepared using the USGS National Elevation Dataset. Digital Elevation Model (DEM) data will be processed using ESRI ArcGIS® Software to delineate a drainage area and develop slope mapping. The map will include and label surface water features in and around the Facility Area (streams, rivers, lakes, reservoirs). A preliminary Stormwater Pollution Prevention Plan (SWPPP), as identified in 1001.23(c)(1), will describe how and where stormwater from the site discharges and will reference the associated tributaries and other water bodies that appear on mapping.
- b) A proposed site plan showing existing and proposed contours at 2-foot intervals.
- c) Preliminary cut and fill calculations based on the above-described contour data. Separate calculations for topsoil, sub-soil and rock will be roughly approximated based on publicly available data from the Montgomery County Soil Survey and the results of preliminary geotechnical investigations. In addition, a description of typical scenarios that would result in cut and fill necessary to construct the Facility, such as constructing an access road on a side slope, will be provided. Information regarding invasive species will be addressed in Exhibit 22(b) of the Application as set forth in Stipulation 22(b) below.
- d) A preliminary calculation of the amount of fill, gravel, etc. based on typical Facility details such as an access road cross section. Calculation will be based on the anticipated amount of material needed. For example, an access road typical detail will indicate typical width of road and depth of gravel, which will be multiplied by the linear distance of proposed access road.
- e) The Applicant agrees to provide the information required by 1001.21(e).
- f) The Applicant agrees to provide the information required by 1001.21(f). If horizontal directional drilling (HDD) is proposed for Facility construction, an evaluation of the feasibility of HDD within the Facility Site will be included in the Article 10 Application. In addition, an Inadvertent Return (Frac-out) Plan will be provided with Article 10 Application if HDD installation methodology is proposed. The Frac-out Plan will establish proposed setbacks of HDD operations from stream banks, drinking water wells, and other known potential sensitive receptors, and include a description of frac-out mitigation and response measures. The plan will also include a scaled drawing showing typical HDD equipment staging layout and design. However, if no HDD is necessary for the Facility, then the Application will not include an Inadvertent Return (Frac-out) Plan.
- g) The Applicant agrees to provide the information required by 1001.21(g).
- h) The Applicant agrees to provide the information required by 1001.21(h).
- i) The Applicant agrees to provide the information required by 1001.21(i). If blasting is proposed, the preliminary blasting plan will include procedures and timeframes for notifying host communities and property owners within a one-half mile radius of blasting locations.
- j) The Applicant agrees to provide the information required by 1001.21(j).
- k) The Applicant agrees to provide the information required by 1001.21(k).
- l) The Applicant agrees to provide the information required by 1001.21(l), including any known or suspected areas of karst topography within the Facility Site.
- m) The Applicant agrees to provide the information required by 1001.21(m).
- n) The Applicant agrees to provide the information required by 1001.21(n).

- o) A map delineating soil types at the Facility using data from USDA NRCS Web Soil Survey, indicating locations of Prime Farmland, Prime Farmland if drained, Unique Farmland, Farmland of Statewide Importance, and Farmland of Local Importance. Specifically, Prime Farmland, Prime Farmland if Drained, and Farmland of Statewide Importance will be mapped based on data obtained from the Soil Survey Geographic Database (SSURGO), while Unique Farmland and Farmland of Local Importance will be mapped based on consultation with the local NRCS office (i.e., assuming the local NRCS office is able to identify the location of such soils). The Application will also include a discussion of the current agricultural use and productivity of farmlands within five-miles of the Facility Site, as described in Stipulation 4.
- p) The Applicant agrees to provide the information required by 1001.21(p). The geotechnical analysis will, in general terms, address the suitability and limitations of existing soils and depth to bedrock for the proposed site development including excavation stability, erosion hazard, corrosion potential, and structural integrity. These discussions will be supported by published information of specific soil types and the findings of a limited drilling program (data including soil consistency, composition, density, presence of water/bedrock, etc.) Additionally, these items will also be addressed with discussions pertaining to BMP's that should be employed by the designer/contractor to help minimize potential risks/hazards. Any areas where dewatering is anticipated will be identified and typical dewatering methods will be described. If dewatering is addressed in a separate Exhibit (e.g., Exhibit 23), an appropriate reference to that information will be provided.
- q) Maps, figures, and analyses on depth to bedrock, underlying bedrock types, and vertical profiles of soils, bedrock, water table, seasonal high groundwater (using U.S. Fish and Wildlife Service [USFWS] Online Spatial Geology Data, and the USDA NRCS Web Soil Survey), and typical panel support structure and inverter foundation depths (which typically require minimal excavation). The maps included in the stand-alone Preliminary Geotechnical Analysis will show all Facility components, including access roads and interconnections. Vertical profiles will be associated with test boring locations only, and the locations of borings advanced during the preliminary geotechnical investigations will also be identified on maps included with the report. Areas designated for stockpiling of spoils and fill materials will be identified. If spoil materials will be temporarily stockpiled adjacent to access road, and trench locations, typical layouts will be provided.
- r) The Applicant agrees to provide the information required by 1001.21(r).
- s) As previously indicated, the Facility appears to have minimal vulnerability associated with seismic events based on review of publicly available data. In addition, because the Facility is located approximately 100 miles from the nearest large water body (Lake Ontario), there is no vulnerability associated with tsunami events. Therefore, these topics will not be further addressed in the Article 10 Application.

## **Stipulation 22– 1001.22 Exhibit 22: Terrestrial Ecology and Wetlands**

Exhibit 22 shall contain:

- a) Maps, information on, and a description of the plant communities within the Facility Site, and adjacent properties, including plant community mapping using Geographic Information System (GIS) software. For the purposes of the entirety of Exhibit 22, "GIS", "GIS software" and "shapefiles" must be compatible with ESRI's ArcGIS suite of software (e.g. ArcMap). These maps and shapefiles will show approximate locations and extent of identified plant communities (see discussion in Stipulation 22(b)(2)(iii) below regarding invasive species mapping) overlaid with areas of proposed disturbance, and be based on the results of on-site identification and description of plant communities including:
  - 1) Information on plant communities of the Facility Site based on the results of reconnaissance-level field verification conducted during 2016 and 2017, roadside surveys from adjacent parcels, review of USGS

- NLCD land cover data, and recent aerial imagery. A plant species list, which will include all species identified during various field surveys and incidentally while in the Facility, and the month and the year observed (to the extent this can be established for those field surveys/incidental observations that occurred prior to development of stipulations), will be provided. Specific information on, and a detailed description of, all ecological communities identified within parcels that will host Facility components will be provided, as classified according to *Ecological Communities of New York State* (Edinger et al., 2014). For each community identified, the Applicant will also indicate if it is considered rare (e.g. provide its Heritage Program Element Rank). A map, based on aerial photography, showing approximate locations and extent of identified plant communities, will be included.
- 2) For project areas within 500 feet of disturbance areas provide maps at a scale of 1:2000 showing approximate locations and extent of identified plant communities as classified according to *Ecological Communities of New York State* (Edinger et al., 2014).
- b) Characterization of impacts on plant communities from construction and operation including:
1. Proposed temporary and permanent impacts to plant communities, including permanent conversion of one cover type to another, shall be calculated for each community type. Discussion of such impacts will include:
    - i. Specific assumptions associated with the approximate limit of vegetation clearing for each type of Facility component as identified in the Preliminary Design Drawings associated with Exhibit 11.
    - ii. A table of assumed area disturbance for each project component type, associated with Exhibit 11 addressed in "22(b)1.i" above.
    - iii. Calculated using GIS software, and presented in a summary impact table, the number of acres of each cover type impacted. Permanent impact calculations will include all tree clearing for construction and operation of the Facility.
    - iv. The plant community mapping referenced in 22(a) above will also depict vegetation cover types throughout the Facility Site in relation to proposed limits of vegetation disturbance at a scale of 1":1000', and associated GIS shapefiles showing all areas of clearing and disturbance will be provided to NYSDEC. A discussion and evaluation of fragmentation to grasslands and forested habitat that may occur as a result of the construction of the Facility will also be included.
  2. Invasive Species Identification will include:
    - i. A list of all non-native invasive species observed during site-specific field investigations, incidentally while on site for other purposes, and/or and known to occur within the Facility. The list, maps, and shapefiles (as points or polygons, depending on the amount of area covered) of non-native invasive plant species in areas of proposed disturbance shall be based on a qualitative field survey. The methods utilized and results of the survey will be summarized in a baseline invasive species report to be included with the Application.
    - ii. For each invasive species identify an area and concentration threshold that requires mapping and an individual treatment plan.
    - iii. Maps at a scale of 1:2000 of any identified concentrations of non-native invasive plant species in areas of proposed disturbance will be included.
  3. An Invasive Species Prevention and Management Plan that addresses the plant species listed in 6 NYCRR Part 575 will be included in the Application. For the purposes of the entirety of Exhibit 22, unless otherwise specifically noted in stipulations, "invasive species" is defined as all terrestrial and aquatic species listed at: [http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/islist.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/islist.pdf). Additional invasive

species not included on this list (e.g. reed canary grass and wild parsnip) may also warrant specific management and control measures, depending on current populations of such species within the Facility Site. The Invasive Species Prevention and Management Plan will apply to all prohibited and regulated invasive species and include:

- i. A summary of the survey methods used to identify and mark existing non-native invasive species, survey results (i.e. baseline survey), and a description of how these results will be verified prior to construction.
  - ii. An action plan for pre-construction management of non-native invasive species, including threshold(s) for action. Specific methods the Applicant will use to ensure that packing material, imported fill and fill leaving the Facility site will be free of non-native invasive species material, seeds, and parts to the extent practicable;
  - iii. A specification on how fill material brought to and placed in the Facility site will be free of non-native invasive species material, seeds, and parts, by source inspection or other method, or describe how fill brought to the Facility will not be used in areas free of invasive species;
  - iv. A detailed description of the specific measures to be taken to prevent the introduction, proliferation and spread of all non-native invasive species due to implementation of the Facility's grading and erosion and sediment control plan;
  - v. Details of procedures for preventing the spread of invasive invertebrates and diseases such as the emerald ash borer and hemlock woolly adelgid, based on standard protocols and/or guidance provided by the DEC and DAM, and a discussion of how the Applicant will comply with the state quarantine and protective zones, where applicable;
  - vi. Detailed plans describing how appropriate measures will be implemented to ensure that equipment and personnel arrive at and depart from the Facility Site clean and free of all non-native invasive species material, seeds, and parts. The protocol for inspection of equipment arriving at the Facility Site will be provided in the Application.
  - vii. A detailed description of cleaning procedures for removing non-native invasive species material, seeds, and parts from equipment and personnel, and proper disposal of materials known to be or suspected of being infested;
  - viii. A detailed description of the Best Management Practices or procedures that will be implemented, and the education measures that will be used to educate workers;
  - ix. A detailed description of a minimum 5-year proposed post-construction monitoring and corrective action plan, to achieve the goal of no new invasive species in the Facility Area and no new locations of existing invasive species in the Facility Area, based on the results of the baseline survey, and survey measures and procedures for revising the Invasive Species Prevention and Management Plan in the event that the established goals are not met within a specified timeframe;
  - x. Anticipated methods and procedures used to treat non-native invasive species that have been introduced or spread as a result of the construction, operation or maintenance of the Facility (based on comparisons against the baseline survey); and
  - xi. Landscape re-vegetation plans, including specification of appropriate native wildlife flower or grass seed mix to be used, as appropriate.
- c) A detailed description of the proposed measures that will be implemented to avoid, minimize, and mitigate for any temporary and permanent impacts to existing, non-invasive plant communities, particularly grasslands, wetlands, interior forests, shrublands and young successional forests, as a result of the construction, operation



and maintenance of the Facility. This will include a description of how, to avoid and minimize impacts to vegetation, linear project components such as access roads and interconnection lines will be co-located, and all panels, buildings, storage areas, and other structures will be constructed in areas already developed or disturbed, to the maximum extent practicable. In addition, appropriate post-construction vegetative restoration and management regimes, including reseeding disturbed areas with appropriate native seed mix or planting woody species, as necessary to recreate or enhance wildlife habitat, will be described.

- d) Information on and a characterization of aquatic and terrestrial vegetation, wildlife, and wildlife habitats that occur within the Facility Site, encompassing all areas that may be disturbed for construction of panels, roads, electric collection, interconnection, and other facility components, including:
1. Identification and description of plant communities, plant and wildlife species, and wildlife habitat. Such descriptions will include field identification of aquatic habitats, plant communities, and wildlife habitat that could potentially support federally or state-listed threatened and endangered (T&E) species, state species of special concern (SSC), and state species of greatest conservation need (SGCN) as documented during on-site field investigations (e.g., ecological cover type assessments, habitat assessments, and wetland delineations).
  2. Ecological cover type assessments and habitat assessments identified in 22(d)(1) above, will be classified according to *Ecological Communities of New York State* (Edinger et al., 2014).
  3. Identification and depiction of any Significant Coastal Fish and Wildlife Habitat Areas designated by NYS Department of State (NYSDOS) and/or NYSDEC, and any unusual habitats or significant natural communities within or adjacent to the Facility that could support federally or state-listed T&E species, SSC, or SGCN.
  4. Provide a table of state and federally listed species occurring or likely to occur within the project including the following columns:
    - i. Species name.
    - ii. Federal status.
    - iii. NYS status.
    - iv. SGCN listing,
    - v. Habitat preference identified according to *Ecological Communities of New York State* (Edinger et al., 2014),
    - vi. Identify maps from 1001.22(a)(3) that include habitat for each species.
    - vii. Source of information indicating potential presence of species.
    - viii. Indicate if species was observed onsite.
  5. USFWS, NYSDEC, and New York Natural Heritage Program (NHP) database information will be used to determine if any bat hibernacula or maternity roosts are located within the study area. If hibernacula or roosts are identified within the Facility Site, or five miles from any Facility component or boundary the location and distance to the each identified hibernaculum and roost will be provided separately and confidentially to NYSDEC and NYSDPS.
  6. Information on amphibians and reptiles based the New York State Amphibian & Reptile Atlas Project (Herp Atlas), database records obtained from NHP, NYSDEC, and USFWS, assessments of suitable habitat in the Facility Area, and any field observations made on site or in the vicinity of the Facility.
  7. Vernal pools will be inventoried at the time of wetland field delineations. The application will identify vernal pools located within 500 feet of the edge of disturbance of all Facility components, including forested areas potentially impacted by Facility construction. Vernal pools will be identified in accordance with the *2012 Northeastern Regional Supplement to the Corps of Engineers Wetland Delineation Manual*. To the extent that vernal pools are identified, the Applicant shall submit to NYSDEC detailed

- location maps and ecological characterization data for all identified vernal pools. The Application will include an assessment of potential impacts to vernal pools (including the surrounding upland habitat).
8. Information on bird species that may be present or utilize the Facility at some point during the year based the following sources: existing data from NHP, NYSDEC, and USFWS; assessments of suitable habitat within the Facility; field observations made on-site or in the vicinity of the Facility; New York Breeding Bird Atlas (BBA); US Geological Survey Breeding Bird Survey (BBS); Christmas Bird Count (CBC); Hawk Migration Association of North America (HMANA); eBird; The Nature Conservancy surveys/reports; The Kingbird publication; reaching out to local birding groups (e.g. Delaware Otsego Audubon Society (DOAS))(see Stipulation 22(d)(5)) for information on recent and historical occurrences; and any other publicly available sources that may provide relevant information regarding bird occurrences within or in the vicinity of the Facility and interconnection line.
  9. Description of potential impacts to calcareous shoreline outcrops and karst features, if present within or adjacent to the Facility, and evaluation of what impacts may occur to any species potentially utilizing these habitats if final site design indicates there could be impacts to these ecological communities.
  10. Shapefiles suitable for use in Geographical Information System (GIS) software via ESRI's ArcGIS suite of software (e.g. ArcMap) containing project components will be provided in accordance with General Stipulation 6. In addition, shapefiles showing all wildlife and habitat survey locations as applicable and labeled by year will be included. Shapefiles will be considered business confidential and not shared outside of the agency staff involved in reviewing this project. Draft reports of all bird, habitat, and wetland surveys will be submitted to NYSDEC concurrent with, or prior to (if available) filing of the Application. These reports will include maps and shapefiles provided confidentially to NYSDEC depicting the location(s), observation date(s), species, and behavior(s) of all T&E and SSC individuals observed during pre-construction surveys and incidentally in the Facility
- e) 1001.22(e), The Applicant agrees to provide a species list as required by 1001.22(e), based on the information obtained in support of subpart (d) above. A plant and wildlife species inventory will also be included based on existing data available from the NHP, NYSDEC staff, USFWS, Herp Atlas, BBA, HMANA, CBC, eBird, The Nature Conservancy surveys/reports, The Kingbird publication, local experts, on-site surveys, county-based hunting and trapping records maintained by NYSDEC, and any other publicly available source that may provide relevant information regarding wildlife occurrences within or in the vicinity of the Facility and electric interconnection line. The inventory will include the typical species of birds, mammals, herpetofauna, and terrestrial invertebrates found in the region and likely to occur within or in the vicinity of Facility. On-site field surveys (e.g., avian surveys, ecological cover type assessments, habitat assessments, and wetland delineations) and/or the availability of suitable habitat, will also be used to identify species that could potentially occur within or in the vicinity of the Facility at some time during the year. The inventory will specify whether species were observed, known to occur in Facility site, or are predicted to occur based on habitat characteristics and historical records.
- f) Exhibit 22(f) analysis of impacts from construction and operation shall contain:
1. A summary narrative and associated mapping to explain and illustrate potential and expected construction and operational impacts to:
    - i. Vegetative cover types.
    - ii. Wildlife habitats and the species that they support (including a discussion of impacts from habitat fragmentation).

- iii. Wildlife concentration areas if identified.
  - iv. Travel corridors, if identified.
  - v. Terrestrial organisms identified during pre-construction field studies in relation to the proposed limits of disturbance.
2. A discussion of any direct and indirect construction-related impacts that may occur to wildlife and wildlife habitat, including but not limited to:
    - i. incidental injury and mortality due to construction activity vehicular movement.
    - ii. habitat disturbance and loss associated with clearing and earth-moving activities.
    - iii. the indirect impacts resulting from displacement of wildlife.
  3. A discussion of potential direct and indirect operational and maintenance impacts including but not limited to:
    - i. Loss of habitat, both direct loss of acreage and indirect loss of functionality through edge effects.
    - ii. Forest and grassland fragmentation.
    - iii. Wildlife displacement.
    - iv. Avian collisions.
    - v. Bat collisions.
    - vi. To the extent any documented wildlife travel corridors or concentration areas are identified within or adjacent to the Facility Site, direct and indirect impacts to such corridors and concentration and the species utilizing such areas will be addressed.
  4. A discussion and assessment of potential short- and long-term impacts to plants, animals, and habitats that may result from the application of biocides, if any, during site preparation, construction, maintenance, or operations. This will include consideration of impacts to trees, ground covers, and other vegetation planted as part of restoration, mitigation and habitat enhancement activities.
  5. A summary impact table quantifying anticipated temporary and permanent impacts associated with all Facility components in relation to wildlife habitats, identified concentration areas or travel corridors (to the extent data associated with such areas or corridors are readily available or provided to the Applicant by NYSDEC personnel), and vegetation cover types classified according to *Ecological Communities of New York State* (Edinger et al, 2014), such as grasslands, young successional forests and interior forests, if affected.
  6. The Application will discuss the Facility's location in the Mohawk River Valley Grassland Focus Area, and any other identified concentration areas or migration corridors, as identified by NYSDEC, and include a discussion of the cumulative impacts of the Facility on wildlife species and the habitats that support them with respect to the other photovoltaic solar energy projects or solar panels that are currently operating and proposed to be constructed within the Mohawk River Valley Grassland Focus Area or are otherwise nearby the Facility, and at operating projects throughout the northeast. For the purposes of Exhibit 22(f), "proposed project" or "proposed panels" are defined as any project or panels that are associated with a project for which a PSS has been submitted to NYSDPS, posted on the docket, or a case number assigned under Article 10 of the PSL, or are part of a project that has completed or is currently undergoing the State Environmental Quality Review (SEQR) process, for which there is a publicly available DEIS or FEIS document, as of the date of the submission of the Application; "nearby" is defined as all operating or proposed solar energy project that are located within 100 miles of the Facility, including those in other counties, states or provinces.
    - a. Exhibit 22(f) will include a wildlife and habitat impact analysis including an identification, evaluation, and assessment of direct and indirect Facility-related impacts to wildlife species, particularly: federally and state-listed T&E species and their habitats; SSC and SGCN; wildlife concentration

areas; migration corridors; and forest and grassland habitats. The NYSDEC Region 4 Wildlife Office will be contacted to obtain the most recent breeding, wintering, and habitat data for state-listed species. The USFWS Field Office in Cortland, New York will be contacted to obtain the most recent breeding, wintering and habitat data for federally listed and protected species.

- b. Draft copies of all wildlife survey reports planned for the Facility or requested by state or federal agencies, based on work plans developed with the agencies, will be submitted concurrent with, or prior to (if available) filing of the Application, including any associated maps and shapefiles. The Applicant has completed winter raptor surveys and breeding grassland bird surveys in 2018. The Applicant is still in discussion with NYSDEC regarding the need for additional surveys for T&E grassland bird species potentially to be conducted in 2019. If surveys are on-going or still need to be conducted at the time of submission, the Application will describe the status of such surveys and note that, once such survey work is completed, reports will be provided to NYSDEC and NYSDPS.
  - c. Avian occupancy and usage of the Facility will be compared with pre- and post-construction wildlife survey data, as available, for other utility-scale solar facilities in New York State, and with operating projects throughout the northeast, as well as additional information provided by NYSDEC and USFWS.
  - d. A cumulative impact analysis will be done to evaluate the expected impacts from the construction, operation and maintenance of the Facility as they relate to other proposed and operating solar energy projects nearby the Facility and in the state. This analysis will minimally include a discussion and calculations describing and showing:
    - i. examination of data on currently installed or proposed utility-scale solar energy capacity in the state, as well as projected increase in solar energy capacity for the life of the Facility.
    - ii. estimated take of federally listed or protected and state-listed species at the Facility, based on post-construction studies done in the state and northeast, data provided by state and federal agencies, and any other available relevant information
    - iii. acres of each habitat type lost directly through installation of panels and other project components, clearing, and cover type conversion
    - iv. acres of each habitat type lost indirectly due to functional loss/degradation of habitat (for purposes of forest fragmentation analyses, it is assumed that indirect effects will extend up to 300 feet beyond the limits of disturbance), and
    - v. cumulative impacts of forest and grassland habitat fragmentation, particularly potential impacts on listed bird species, nearby the Facility.
  - e. A literature review and impact analysis evaluating how the construction, operation and maintenance of the Facility will affect wintering and breeding grassland bird species, including an assessment of the potential population-level effects of habitat loss is likely to have on grassland bird species at a regional scale, will also be included.
7. Information regarding the presence of federally and state-listed T&E species, SSC, rare species, and SGCN:
- i. A discussion of the Facility's potential to impact such species or their habitats based on database records obtained from the NHP, other known records documented by NYSDEC, USFWS, and on-site wildlife and habitat, ecological, and wetland surveys. A summary impact table containing information on all species within these categories will be compiled and included in the Application.

- ii. The presence of Facility components in occupied habitat of listed T&E species may constitute take, pursuant to 6 NYCRR Section 182.11 (Part 182), of individuals or the habitat they depend on, or both. If it is determined by the Applicant, NYSDEC, or USFWS that construction or operation of the Facility is likely to result in a take of a listed or federally protected species, including the adverse modification of habitat on which a listed species depends, the Applicant will submit with the Application an avoidance, minimization, and mitigation plan that demonstrates a net conservation benefit to the affected species pursuant to Part 182, along with the informational requirements of an Incidental Take Permit (ITP), as provided for in Part 182, including proposed actions to first avoid all impacts to listed species. If it is determined that adverse impacts are unavoidable and would result in a take under Part 182, the Application will demonstrate this and describe why complete avoidance of impacts to each affected species is not feasible, along with proposed actions to minimize impacts to the maximum extent practicable, and proposed mitigation and adaptive management actions. The minimization actions and mitigation measures to be implemented will: be developed in consultation with NYSDEC and USFWS (if federally-listed species may be impacted); result in a net conservation benefit to the target species; and require thorough post-construction monitoring that adequately measures the Facility's impact on the target species. The Application will describe information associated with a proposed post-construction monitoring plan to be implemented to assess direct and indirect impacts of the Facility on avian and bat species and their habitats. The details of a full post-construction monitoring plan will be developed on a site-specific basis through discussions between NYSDEC, the Applicant, and USFWS (if federally-listed species may be impacted), and at a minimum specify the following: the expected and allowed level of take of each target species, if applicable; survey monitoring methods, effort, duration, data reporting and compliance documentation; construction parameters; proposed adaptive management responses, if applicable, and; mitigation measures sufficient to ensure the Applicant complies with the substantive requirements of Part 182, if applicable. A post-construction monitoring plan will be approved by NYSDEC and NYSDPS and finalized prior to the start of project operation. All information and material described in section 22(f), including all associated attachments and appendixes, will be provided to NYSDEC in full and un-redacted at the time the Application is submitted.
- g) A detailed description of the impact avoidance and minimization efforts used in developing the Facility, as they pertain to vegetation, wildlife, and wildlife habitat. The Facility design, construction controls, and operational measures that can be reasonably implemented to first avoid, then minimize and mitigate for impacts to wildlife and wildlife habitat as a result of the construction, operation and maintenance of the Facility Site will also be described. This will include a discussion of measures to first avoid and, if impacts are unavoidable, minimize direct impacts to individuals of federally and state-listed and protected species through appropriate project siting, and indirect impacts associated with habitat loss, fragmentation, and displacement. A commitment to mitigate, in an appropriate and timely manner, for any unavoidable impacts to listed species will also be discussed. Such mitigation must be determined only after avoidance and minimization measures are evaluated and agreed upon by all parties, and must result in a net conservation benefit to the target species. Measures to avoid, minimize and mitigate for impacts to vegetation will be addressed in Exhibit 22(c). All information and material described in section 22(g), including all associated attachments and appendixes, will be provided to NYSDEC in full and un-redacted at the time the Application is submitted.
- h) The requirements of 1001.22(h) are specifically intended for wind powered facilities. The Applicant is proposing a solar powered facility, therefore, the requirements set forth in 1001.22(h) do not apply.
- i) Wetland Mapping and delineation will comport with the following:
  - 1. The determination of wetland boundaries during on-site field delineations will be made according to the three-parameter methodology described in the U.S. Army Corps of Engineers (Corps) *Wetland Delineation Manual*, and the appropriate *Regional Supplement to the Corps of Engineers Wetland Delineation Manual*.

In addition, boundaries of freshwater wetlands regulated under Article 24 of the New York Environmental Conservation Law (ECL) will be delineated according to methods described in the *New York State Freshwater Wetlands Delineation Manual* (1995). All wetlands within 50 meters of a NYSDEC mapped wetland, regardless of size or connectivity, will be delineated and included in field mapping. These delineations will include all vernal pools and other similar wetlands regardless of the possible lack of hydrologic connectivity to the waters of the United States. Vernal pools will be delineated in accordance with the appropriate *Regional Supplement*.

2. Wetland boundaries will be defined in the field by sequentially numbered pink surveyor's flagging marked "wetland delineation" with the locations of individual flagging points documented using Global Positioning System (GPS) technology with reported sub-meter accuracy. Wetlands identified by these methods will be referred to as "delineated wetlands", and wetlands that are verified by the Corps and the NYSDEC will be referred to as "jurisdictional wetlands". Jurisdictional determination is required to fully and accurately assess potential impacts to wetlands and adjacent areas. The use of Wetland Delineation Data Forms (or comparable forms) to fulfill Army Corps of Engineers requirements, and field verification by the Army Corps and the NYSDEC, shall not be required to obtain a finding by the Chair of the Siting Board that a developer's Article 10 Application complies with the statute. However, such information and verifications will be necessary to obtain Army Corp approval outside of the Article 10 process and to reach agreement with NYSDEC Staff in the Article 10 proceeding on the extent and nature of wetlands impacts.
3. On-site field delineations will consist of boundary flagging of all wetlands and 100-foot adjacent areas that occur within 500 feet of the limits of disturbance around all Facility components such as access roads, electric interconnection lines, panels, temporary and permanent meteorological tower(s), staging areas, O&M building(s), substation(s), etc. These delineation protocols will apply to all wetlands and vernal pools.
4. All wetland boundaries must be keyed to the submissions described in Exhibit 11 (Preliminary Design Drawings). The interpolated boundaries shown on site plans will be differentiated from field delineated boundaries when displayed on maps, site plans and shapefiles.
5. Information on and an estimation of the presence and extent of wetlands occurring in the Facility Area and located greater than 500 feet from the limits of disturbance around all Facility components, or are located within 500 feet of areas to be disturbed by construction but are on parcels to which the Applicant does not have access, will be developed using the following: remote-sensing data; interpretation of wetlands and soils mapping published by National Wetland Inventory (NWI) and NYSDEC; observations made from public roads and adjacent Facility parcels; evaluation of existing databases of hydric soils; analysis of topography; and interpretation of aerial photography. Wetlands identified in this way will be referred to as "predicted wetlands".
6. The delineation report that will be provided to the District Office of the USACE and the Regional NYSDEC office (and included with the Article 10 Application) will include the results of the field delineation (i.e., describe the location, size, community type and likely jurisdictional status of all delineated streams and wetlands). The Application will include maps and shapefiles showing the boundaries of all delineated wetlands, jurisdictional wetlands, predicted wetlands, and all corresponding adjacent areas within the entire Facility. Additional maps at a scale of 1"=50' depicting all of the following will also be included in the Application: all Facility components; proposed grade changes; the limits of ground disturbance and vegetative clearing, and; all field-delineated wetlands, predicted wetland boundaries, and 100-foot adjacent areas within 500 feet of all areas to be disturbed by construction. Shapefiles depicting the same will be provided to NYSDEC. All impacts to wetlands, and regulated adjacent areas will be clearly explained and presented/depicted on mapping in support of Exhibit 22.
7. Information will be provided indicating which delineated wetlands are likely state-regulated, including those that are part of wetland complexes that meet state-criteria for jurisdiction (e.g. 12.4 acres or larger, is of Unusual Local Importance, and/or support listed species) but are not currently mapped. All state-regulated

wetlands will be identified by NYSDEC's wetland identification number in addition to the code assigned by the Applicant during delineation. Investigation areas for wetland delineations may need to be extended to make these determinations. At a minimum, the desktop mapping approach described in Exhibit 22(i) will identify all wetlands that potentially meet state-criteria for jurisdiction.

- j) A description of the characteristics and Cowardin classification of all federally, state, and locally regulated delineated wetland communities, a summary of the field data collected regarding vegetation, soils, and hydrology and copies of all Wetland Determination Data Forms will be compiled into a Wetland and Stream Delineation Report and appended to the Application.
- k) A qualitative and descriptive wetland functional assessment, including seasonal variations, for all delineated wetlands. Qualitative scores that assess functions and values for each delineated wetland will be based on a methodology similar to *The Highway Methodology Workbook Supplement, Wetlands Functions and Values: A Descriptive Approach* published by the U.S. Army Corps of Engineers New England District in 1999. The functions/values evaluated using this method will include:
  - 1) Groundwater recharge/discharge;
  - 2) Flood-flow alteration;
  - 3) Fish and shellfish habitat;
  - 4) Sediment/toxicant/pathogen retention;
  - 5) Nutrient removal;
  - 6) Production export;
  - 7) Sediment/shoreline stabilization;
  - 8) Wildlife habitat;
  - 9) Recreation;
  - 10) Education/scientific value;
  - 11) Uniqueness/heritage
  - 12) Visual quality/aesthetics;
  - 13) Protected, threatened or endangered species habitat.
- l) Offsite wetland evaluation will include:
  - 1. As described above in 22(i), wetland boundaries and adjacent areas within 500 feet of all Facility components and all disturbed areas will be field delineated and mapped. This information will be used to inform an analysis and description of hydrological connections of all wetlands within the Facility to offsite wetlands, including those that are anticipated to fall under NYSDEC jurisdiction (under Article 24 of the ECL) and Corps jurisdiction (under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act). Assessments of potential state wetland jurisdiction will include both "mapped" and "unmapped wetlands" that meet NYSDEC's 12.4-acre size threshold (including any wetlands of any size separated by less than 50 meters which function as a unit in providing wetland benefits, pursuant to 6 NYCRR Part 664, or otherwise meet state criteria for jurisdiction (e.g. wetlands or vernal pools determined to be of Unusual Local Importance, pursuant to 6 NYCRR 664.7(c)). A summary will be provided of off-site wetlands adjacent to the Facility and any disturbed areas that may be hydrologically or ecologically influenced or impacted by development of the Facility, including Significant Coastal Fish and Wildlife Habitat Areas designated by NYS Department of State (NYSDOS), and public lands, to determine their general characteristics and relationship, if any, to the delineated wetlands within the Facility. All information from a site visit to be

conducted during the 2018 growing season, including maps and shapefiles, will be provided to NYSDEC personnel as soon as delineations are completed and before the Application is submitted, to allow for NYSDEC to determine the full extent of wetland jurisdiction.

- m) Identification of temporary and permanent impacts to wetlands and their regulated adjacent areas will include
- 1) An identification and quantification of temporary and permanent impacts to field delineated wetlands (and all state-regulated 100-foot adjacent areas) based on the proposed footprint of all Facility components and associated impact assumptions. This assessment will also include a description of applicable permanent wetland forest conversion, if any, which would occur as a result of the construction or maintenance of the Facility. Such impacts will be summarized and presented in a table that identifies and calculates the following:
    - i. the acreage and type of impact, including but not limited to permanent or temporary fill and forest conversion, to each wetland and adjacent area, including vegetative cover type affected by each impact;
    - ii. associated crossing methodology for each wetland, clearly discerning between federal and state wetlands, and adjacent area impacts;
    - iii. wetland delineation types (i.e. field survey, review of aerial imagery, roadside observation, etc.);
    - iv. Applicant-assigned wetland identification code, NYSDEC wetland identification number, and NYSDEC stream classification; and
    - v. the corresponding reference to the respective sheet of the preliminary design drawings depicting the resource, and on the mapping required by subsequent item 22(m)2.
  - 2) Impacts to wetlands will also be presented on a separate set of site plan drawings at 1":50 scale, showing wetland boundaries, permanent and temporary structures, stream crossings, roads, power interconnects, grade changes, and the limits of disturbance.
- n) 1) A general discussion of all avoidance and minimization measures considered, and an indication of methods to be implemented to avoid wetland impacts, including crossing methodology and a description of Facility construction and operation in relation to standards established under ECL Articles 15 and 24. The Application will discuss how direct impacts to wetlands and streams will be minimized by utilizing existing or narrow crossing locations wherever possible. Additional impact avoidance and minimization measures may include consideration of alternative siting or routing options, trenchless crossings (such as horizontal direction drilling (HDD) or other special crossing techniques), equipment restriction, herbicide use restrictions, and erosion and sedimentation control measures. Exhibit 23 (Water Resources and Aquatic Ecology) will contain further discussion of how potential impacts to streams will be evaluated, avoided, minimized and mitigated. The Application's discussion of avoidance and minimization will be updated, if needed, upon final verification of wetland boundaries and jurisdictional determinations. Final impact calculations to the 100-foot adjacent area of state-regulated wetlands and associated mitigation will be based on verified delineation boundaries for jurisdictional wetlands.



- 2) Where impacts are demonstrably unavoidable, and have been minimized to the greatest extent possible, the anticipated mitigation measures to be implemented to offset impacts to wetlands and all state-regulated 100 foot adjacent areas will be discussed, including the use of reasonable alternative crossing methods.
- 3) Pursuant to 6 NYCRR 663.5(g), a conceptual mitigation plan for impacts to state-regulated wetlands and adjacent areas must be included in the Application and at a minimum must meet the following provisions:
  1. The mitigation must occur on or in the immediate vicinity of the Facility (preferably elsewhere in the same wetland);
  2. The area affected by the proposed mitigation must be regulated by the Freshwater Wetlands Act and 6 NYCRR Part 663 after mitigation measures are completed, and;
  3. The mitigation must provide substantially the same or more benefits than will be lost through the proposed activity.
- 4) Evaluation of mitigation options will occur during initial planning of the Facility. Off-site mitigation will only be considered if an analysis is provided showing that all options within the immediate vicinity were thoroughly evaluated and determined to not be feasible. In-lieu-fee does not meet the state requirements for mitigation. Alternative analyses will be based on the final verified delineation boundaries for jurisdictional wetlands.
- 5) This section of the Application will also describe the anticipated Environmental Compliance and Monitoring Program (ECMP) to be implemented during Facility construction, demonstrating adherence to all relevant permit conditions to protect wetlands, streams, and other waterbodies. The Facility's ECMP will include an Environmental Monitor(s) during construction and restoration activities, and the duties of the Environmental Monitor will be described. The ECMP will clearly describe the locations of all staging areas, temporary spoil or woody debris stockpiles, "extra work" areas, and other places material or equipment may be placed on site. The limits of disturbance around all such areas will be clearly defined in plan maps, and physically marked in the field using orange construction fencing or other similar indicators. Plans to restore all temporary disturbances in regulated areas, including replanting trees in temporarily disturbed forested areas, will be provided.
- 6) For each item identified in the table described in 22(m), the following will also be provided:
  - i. For each resource, explain if the resource could reasonably be avoided;
  - ii. Proposed site-specific actions to minimize impacts to resources that are not avoided;
  - iii. Proposed site-specific actions to mitigate impact that are not avoided, and;
  - iv. Proposed appropriate compliance monitoring schedule to ensure mitigation is successful, including adaptive management actions to be implemented should the planned mitigation fail.
- o) An identification of New York State and Federally listed T&E species documented within or adjacent to the Facility area, along with a discussion of all potential direct and indirect impacts to these species, and the detailed contents of an Endangered Species Avoidance, Minimization and Mitigation Plan, if needed, that demonstrates net conservation benefit to the affected listed species, will be provided in Exhibit 22(f). The results of pre-construction surveys and the associated impact analysis, as well as the estimated direct and indirect take of listed species and their habitats will provide a basis for ongoing consultation with NYSDEC, NYSDPS, and USFWS (if necessary) to determine an appropriate post-construction monitoring protocol.

- p) An Invasive Species Prevention and Management Plan will be provided as described in Exhibit 22(b).
- q) An evaluation of impacts on agricultural resources including:
- 1) A quantification and analysis of temporary and permanent impacts to agricultural land based on the proposed footprint of all Facility components and associated limits of disturbance during construction. To minimize impacts to active agricultural land, the Applicant plans to coordinate with NYS Department of Agriculture and Markets (NYSDAM). A discussion of potential mitigation, following the most recent edition of guidance documents issued by NYSDAM). As described in Stipulation 4, the Applicant will also include a discussion of trends in land use (with a specific focus on conversion of farmland) over the last 20 years within a five-mile radius of the Facility. This will include a discussion of the Facility's potential effect on the availability of farmland within five miles, the percent of farmland that will be converted to nonagricultural use, and impacts to sub-surface drainage systems.
  - 2) A map of the Facility Site showing locations of prime farmland, prime farmland if drained, unique farmland, and farmland of state and local importance, will be provided in Exhibit 21. The Applicant will consult with NYSDAM and the Cornell Cooperative Extension on potential effects of the construction, operation and maintenance of the Facility on orchard and field crop pollination, and a discussion of this will be included.
  - 3) Discussion of methods for identifying drainage tile lines prior to construction, along with restoration of any tile lines impacted by Facility construction activities.
  - 4) A discussion of current agricultural use and productivity within the Facility Site, including information gained from interaction with the NYSDAM and local farmers. The discussion will also include information on any anticipated cumulative impacts of the Facility on agricultural land during the life of the Facility.
  - 5) Description of appropriate measures that avoid or minimize permanent impacts to the agricultural viability of soils and lands within the Facility Site.

### **Stipulation 23– 1001.23 Exhibit 23: Water Resources and Aquatic Ecology**

- a) The Application will contain information on groundwater including:
- 1) Maps, at a scale that supports legibility, showing depth to bedrock, depth to high water table, and karst features throughout the Facility area using Soils Survey of Montgomery County and the results of the preliminary geotechnical investigation.
  - 2) Maps based on publicly available water well information based on the following sources: data requested from the New York State Department of Health, Records Access Officer, the NYSDEC, US Geological Service (USGS) Office of Groundwater, US Department of Agriculture (USDA) Soil Conservation Service, USDA Natural Resources Conservation Service (NRCS) Web Soil Survey, the Montgomery County District Office, and other local municipalities, as well as from data collected during subsurface investigations in the Facility Site. All information received from these sources will be mapped, and to the extent available/provided by these sources, Exhibit 23 will also discuss groundwater quality; the location, depth, yield and use of identified public and private groundwater wells (or other identified points of extraction of groundwater), and the location of well head and aquifer protection zones, where publicly available, will also be included, within one mile of the Facility Site. In addition, the Applicant will conduct a private well survey

within a 2,000 foot radius of the Facility Site. The Application will include a list of private wells, identified through the Applicant's survey, and available well design and production information (to the extent provided in response to well surveys). The survey will solicit well construction details, usage patterns, and water quality data, as well as include educational information describing the Project and the Article 10 process, ways to contact Facility personnel, a link to the Applicant's website, and methods by which survey recipients can obtain additional information regarding the Facility and be added to the stakeholder list.

- 3) An analysis and evaluation of potential groundwater impacts (during normal and drought conditions) from the construction and operation of the Facility on drinking water supplies, and groundwater quality and quantity within one mile of the Facility Site. This will take into account data collected regarding the nature and extent of existing groundwater contamination within the Facility obtained from the well survey and publicly available data, including potential impacts, to known public and private water supplies, groundwater aquifers, wellheads and aquifer protection zones. The Application will include plans for notification and complaint resolution during construction of the Facility based upon the results of the impact analysis, as needed. Information on anticipated areas of potential dewatering during construction and operation of the Facility, based on publicly available databases, the results of the well survey, and geotechnical borings conducted at select locations within the Facility Site will also be provided. A proposed method of dewatering (where needed) will be described in the Application. This section will also include a general discussion of likely sources of water for concrete mixing operations (if needed). Details associated with the design and layout of facilities for withdrawal and transport of source water will be provided post-Certification once the Applicant engages a BOP contractor.

b) Information on surface waters including:

- 1) A map, at a scale that supports legibility, identifying all surface waters, including intermittent and ephemeral streams and wetlands, using data from the NYSDEC, ESRI, U.S. Geological Survey ("USGS"), National Wetlands Inventory, and stream data collected during the on-site surveys of water resources within 500 feet from the edge of disturbance from all proposed Facility components..
- 2) The following will be provided for each waterbody: a description of New York State listed Water Classification and Standards pursuant to 6 NYCRR Part 800-941; Part Item Numbers; Water Index Numbers (WIN); physical water quality parameters; flow rate; biological aquatic resource characteristics (including incidentally observed species of vertebrates and invertebrates (if any), habitat, and presence of invasive aquatic species), and; other characteristics of such surface waters, including intermittent streams, in the Facility Site using publicly available data, and when necessary, supplemented by field data collected during wetland and stream delineations or information provided by NYSDEC. The Application will note that Class C Navigable streams are protected whether or not they have a (t) designation (as defined in 6 NYCRR Part 608.1(u) and ECL 15-0505). Aquatic invasive species as identified by NYSDEC ([http://www.dec.ny.gov/docs/lands\\_forests\\_pdf/slist.pdf](http://www.dec.ny.gov/docs/lands_forests_pdf/slist.pdf)), which are observed while conducting delineations and field investigations, will be documented and included in the Application. Invasive species are further addressed in Exhibit 22 (Terrestrial Ecology and Wetlands).
- 3) An identification of all surface water drinking water intakes within one mile of the Facility and contained within the drainage basin(s) in which the Facility is located, or if none are located within one mile, the nearest downstream surface water drinking supply intake. Location(s) of the intakes will be given by longitude and latitude. A discussion of potential impacts to drinking water supplies due to the Facility or onsite non-Article VII interconnections will include characterization of the type, nature, and extent of service provided from the identified source, will be included.

- 4) A narrative discussion will be provided that describes all potential impacts to surface water resources, including wetlands, streams and lakes. Environmental impacts to be discussed and addressed will include the following: thermal changes to waterbodies resulting from vegetative clearing; changes to in-stream structure, morphology and stability; potential impacts to or taking of federally or State-listed threatened and endangered (T&E), state species of special concern (SSC), and species of greatest conservation need (SGCN); and the effects of turbidity on nearby habitat. If any dredging/sediment removal may occur, sediment sampling will be conducted prior to removing material in accordance with protocol established by NYSDEC, and the impacts of (potentially contaminated) sediment resuspension/dispersion will be discussed. Where appropriate and practical, mitigation actions will be discussed to offset acute and chronic impacts to waterbodies. The Applicant will describe the nature of the Article VII facility, if any, in relation to the sediment control plans. Potential source(s) of and collection systems for water for construction period uses, including for concrete batch plant, invasive species wash station(s), fire control, and other uses will be provided. NYSDEC maintains a strong preference for trenchless (notably horizontal directional drilling (HDD)) installations to greatly reduce clearing and surficial impacts to waterbodies. For any HDD installations, a "frac-out" contingency plan shall be provided to address any inadvertent releases. The feasibility of using overhead crossings with poles more than 50 feet from the top of banks, or trenchless crossings, will be assessed and implemented for all streams proposed to be crossed. A table will be provided that identifies all resource impacts to surface waters, at a minimum including:
- i. A calculation of the approximate acreage and linear distance of surface waters that will be temporarily or permanently impacted based on the proposed Facility footprint and associated impact assumptions, and field delineated stream boundaries.
  - ii. The construction impact type at each waterbody and, as applicable, the crossing methodology impact (e.g., buried collection, access road) and construction technique used (e.g. HDD or access road utilizing temporary bridge).
  - iii. Typical details of BMPs to be used. Detailed BMPs following the recommendations of NYSEC will be provided for each construction technique as appendixes to the Application.
  - iv. All stream crossings for temporary and permanent roads, anticipated culvert placement specifications, and BMP considerations for culvert placement, including methodology for controlling water flow during construction. All stream crossing structures will include the bankfull width at the crossing location.
  - v. References to photographs depicting all perennial and intermittent stream crossings (including photos of upstream and downstream of the crossing site) identified for the project and referenced to the stream WIN and crossing location on maps and shapefiles, will be included as an Appendix.
  - vi. All relevant information above in 23(b)2 will be referenced in this table.

A map of all anticipated HDD locations in relation to surface water resources will also be included, specifically noting the location of all proposed HDD operations within 500 feet of surface waters, wetlands or existing water supply wells will be identified in the Application. Additionally, a description of mitigation

measures to minimize impacts of HDD operations on surface water quality and the hydrologic flow patterns and groundwater quality of the aquifer will be included.

- 5) The Application will identify and evaluate reasonable avoidance measures and Facility layout alternatives. This will include an evaluation of reasonable alternatives that may entirely avoid impacts to regulated waterbodies. Where impacts are unavoidable and have been minimized to the greatest extent possible, mitigation measures will be proposed for groundwater and surface water impacts. All stream crossing structures will include the bankfull width at the crossing location, and the dimensions of the proposed structure. The specific methodology for controlling water flow during construction will be discussed for each stream crossing. For all underground lines, an indication of whether the crossing will be done via open cut or a trenchless installation method will be provided, including for all open trench crossings an analysis demonstrating that a trenchless method is not feasible. Work prohibition dates will be established in consultation with NYSDEC after the Applicant identifies which streams will be crossed. BMPs will be employed throughout the remainder of the year for all stream crossings. Permanent proposed stream crossing methods will meet NYSDEC stream crossing guidelines (<http://www.dec.ny.gov/permits/49060.html>), and all culverts will be designed for a 100-year storm event, allowing for continued stream connectivity, designed to incorporate specifications as described in NYSDEC stream crossing guidelines. The Applicant will provide NYSDEC and NYSDPS with final engineering plans for all stream crossings as soon as feasible, and before the Siting Board's determination on whether to issue a certification pursuant to Article 10.

c) Information on stormwater including:

- 1) Prior to commencement of construction activities, the Applicant will submit to NYSDEC a Notice of Intent for Stormwater Discharges from Construction Activity and will seek coverage under the SPDES General Permit for Stormwater Discharges from Construction Activity issued in January 2015 and effective on January 29, 2015 (modified July 15, 2015). This authorization is subject to review by NYSDEC, and is independent of the Article 10 process. However, the Article 10 Application will include a preliminary stormwater pollution prevention plan (SWPPP), which will be prepared consistent with the SPDES General permit and will describe in general terms the sediment control practices that will likely be implemented during construction activities, and the stormwater management practices that will be used to reduce pollutants in stormwater discharges after Facility construction has been completed, and include:
  - i) an introduction that will review the proposed project, and the purpose, need, and appropriate contents of the complete SWPPP;
  - ii) anticipated stormwater retention and management practices, including temporary and permanent erosion and sediment control measures (vegetative and structural);
  - iii) anticipated construction activities, including a preliminary construction phasing schedule and definition of disturbance areas;
  - iv) site waste management and spill control measures;
  - v) proposed site inspection and maintenance measures, including construction site inspection, and construction site record keeping; and
  - vi) conditions what will allow for the termination of permit coverage.

- 2) The Preliminary SWPPP identified in Stipulation 23(c)(1) above will be prepared in accordance with the New York State Standards and Specifications for Erosion and Sediment Control Standards (NYS Standards), and the New York State Stormwater Management Design Manual. The SWPPP will include typical information on permanent, post-construction erosion and sediment control measures (vegetative and structural), along with the anticipated stormwater management practices that will be used to reduce the rate and volume of stormwater runoff after construction has been completed. However, the Preliminary SWPPP will not include pre- or post-construction stormwater runoff calculations. The Applicant will identify as necessary the post-construction stormwater management practices that are anticipated to be implemented to meet the stormwater quality and quantity requirements of the 2015 NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity (General Permit) on the preliminary design drawings. In accordance with the General Permit, hydrologic modeling and complete design of the post-construction stormwater management will be completed prior to construction.
- d) Information on chemical and petroleum bulk storage including:
- 1) A description of the preliminary Spill Prevention, Containment and Counter Measures (SPCC) Plan. Spill containment requirements for electric transformers at the substation and panel sites will be provided.
  - 2) The Applicant agrees to provide the information required by 1001.23(d)(2). It is not anticipated that the Facility will require on-site storage or disposal of large volumes of any substances subject to regulation under the State of New York's chemical and petroleum bulk storage programs (e.g. fuel oil, petroleum, etc.). If construction, operational, or maintenance activities at the Facility require petroleum or other hazardous chemicals be stored on site, the Application will identify such substances and demonstrate compliance with State laws, regulations and guidelines.
  - 3) Should the Facility require petroleum or other hazardous chemical be stored on-site, the Article 10 Application will identify such substances and discuss compliance with any applicable regulations. If construction, operational, or maintenance activities at the Facility require petroleum or other hazardous chemicals be stored on site, the Application will identify such substances and demonstrate compliance with all Local laws, regulations, and guidelines.
- e) Information on aquatic species and invasive species including:
- 1) A discussion and analysis of the impact the construction and operation of the facility is likely to have on biological aquatic resources (and related critical and sensitive habitat), including species listed as endangered, threatened, or species of special concern in 6 NYCRR Part 182, as well as species of greatest conservation need (SGCN), that are known or suspected of being present within the Facility. The analysis will include a discussion on the potential for introducing and/or spreading invasive species within and adjacent to the Facility. The presence of invasive species within the Facility Site will be documented during wetland and stream delineations and other on-site investigations, as described in Exhibit 22 (Terrestrial Ecology and Wetlands). However, no species-specific surveys for invasive or aquatic species are planned. See Stipulation 23(b)(2) above for additional detail. Maps and shapefiles of the locations of aquatic invasive species will be provided to NYSDEC when the Application is submitted.
  - 2) The Applicant agrees to provide the information required by 1001.23(e)(2). An identification, discussion, and evaluation of reasonable avoidance measures and, where impacts are demonstrably unavoidable, minimization and mitigation measures regarding Facility-related impacts on all aquatic biological resources, particularly listed species. Construction activities and the presence of Facility components in occupied habitat of listed T&E species may constitute take of individuals or the habitat they depend on, or both. If it is determined by the Applicant, NYSDEC, or USFWS (if federally-listed species are identified and potentially

subject to take) that the construction, operation or maintenance of the Facility is likely to result in a take of a listed species, including the modification of habitat on which a listed species depends, the Applicant will submit with the Application an avoidance, minimization and mitigation plan that demonstrates a net conservation benefit to the affected species as defined pursuant to 6 NYCRR Part 182.11 (Part 182), along with the informational requirements of an Incidental Take Permit (ITP), as provided for in Part 182, including proposed actions to avoid all impacts to listed species. If impacts are unavoidable, the Application will demonstrate this and contain thorough and clear justification of why complete avoidance of impacts is not feasible, how the proposed minimization actions will minimize impacts to the maximum extent practicable, and proposed mitigation actions. All information and material described in section 23(e), including all associated attachments and appendixes, will be provided to NYSDEC in full and un-redacted at the time the Application is submitted.

- f) The Facility will not require cooling water, and therefore cooling water withdrawals will not be addressed in the Application.

## **Stipulation 24 – 1001.24 Exhibit 24: Visual Impacts**

Exhibit 24 shall contain:

- a) A Visual Impact Assessment (“VIA”) will be conducted in accordance with 1001.24 to determine and assess the significance of Facility visibility. The VIA procedures used for this study will be consistent with Exhibit 24 requirements and the general methodologies developed by various state and federal agencies, including the U.S. Department of the Interior, Bureau of Land Management (1980), U.S. Department of Agriculture, National Forest Service (1974), the NYSDEC (2000), and the National Park Service’s “Guide To Evaluating Visual Impact Assessments for Renewable Energy Projects” published in 2014 (Natural Resource Report NPS/ARD/NRR-2014/836). The components of the VIA shall include identification of visually sensitive resources (see (b)(4) below for additional information), viewshed mapping, confirmatory visual assessment fieldwork, visual simulations (photographic overlays), and proposed visual impact mitigation. The VIA shall include:
- 1) A five-mile visual study area will be established for the purpose of identifying visually sensitive resources of regional and/or statewide significance. The visual study area will also include selected areas extending beyond that radius for one mile along the Route 20 Scenic Byway corridor travelling west towards East Springfield and for one mile along Route 67 North towards the Fulton County line. A more inclusive inventory of locally significant visually sensitive resources will be conducted for the area within two miles of the proposed Facility. Distinct Landscape Similarity Zones (LSZs) within the five-mile-radius visual study area will be identified, and defined (including discussion and analysis of the existing landscape setting, land uses and visual characteristics of the study area) and the approximate location of these LSZs will be illustrated in the Application.
  - 2) Topographic and Vegetation viewshed maps created to identify potential visibility of the PV arrays, and the methodology for these analyses is described in detail below in Stipulation 24(b)(2). Visual field review will be conducted in the study area. During these site visits, public roads and public vantage points will be visited to document locations from which Facility components would likely be visible, partially screened, or fully screened. This determination will be made based on the visibility of the distinctive Facility site ridges/landforms, as well as existing features (such as residences and hedgerows) on the Facility site, which will serve as locational and scale references. These site visits will result in photographs from many (in excess of 75) representative viewpoints within the study area. The viewpoints will document potential

visibility of the Facility from the various LSZs, distance zones, directions, visually sensitive resources, and areas of high public use throughout the visual study area. During the field review, photos will be taken using digital SLR cameras with a minimum resolution of 24 megapixels. All cameras will utilize a focal length between 28 and 35 mm (equivalent to between 45 and 55 mm on a standard 35 mm film camera). This focal length is the standard used in visual impact assessment because it most closely approximates normal human perception of spatial relationships and scale in the landscape. Viewpoint locations will be documented using hand-held global positioning system (GPS) units and high-resolution aerial photographs (digital ortho quarter quadrangles). The time and location of each photo will be documented on all electronic equipment (cameras, GPS units, etc.) and noted on field maps and data sheets. The results of the field review will be presented in detail with visual aids in the VIA.

- 3) Substation and switchyard, O&M building, lighting standards, PV panels, inverters, fences, access roads, and any other above-ground/visible Facility components will be included in all visual simulations in which they would be visible. This will include visual simulations that depict the proposed substation. It is anticipated that all collection systems for the Facility will be buried underground. However, in the event that overhead lines are necessary in some areas, the engineering design (e.g., pole locations and height) will likely not be completed at the time of the Article 10 Application is submitted. However, to address the potential visual effect any overhead collection lines (if any are proposed), representative photographs of similar built facilities would be included in the Article 10 Application.
- 4) Photographic simulations will be developed by constructing a three-dimensional computer model of the proposed PV panels and Facility layout based on specifications provided by the manufactures and/or the Applicant. The computer model will include the PV panels, any proposed vegetation clearing, the substation, the O&M facilities (including exterior color and finish), and the location and appearance of other visible components of the Facility, all of which will be incorporated into the photographic simulations.
- 5) No lighting will be installed as part of the PV arrays. The only lighting that will be installed as part of the Facility will be at the proposed substation, and potentially at the O&M building. The potential impact of proposed lighting that needs to be installed as part of the Facility, as well as mitigation measures, will be described in the Article 10 Application.
- 6) Photographic simulations developed by using Autodesk 3ds Max Design 2015® (or similar) to create a simulated perspective (camera view) to match the location, bearing, and focal length of each existing conditions photograph. Existing elements in the view (e.g., buildings, existing transmission structures, roads) will be modeled based on aerial photographs and DEM data in AutoCAD Civil 3D 2014® (or similar). A three dimensional ("3-D") topographic mesh of the landform (based on DEM data) will then be brought into the 3-D model space. At this point minor adjustments are made to camera and target location, focal length, and camera roll to align all modeled elements with the corresponding elements in the photograph.
- 7) The VIA will include a discussion of short term visual impacts associated with the clearing of trees, construction of access roads, installation of PV panels, and general construction activity.
- 8) An evaluation of impacts to visual resources from Facility visibility during operation by a panel of three registered landscape architects using a standardized rating form. The methodology utilized in this evaluation will be a simplified version of the U.S. Department of the Interior, Bureau of Land Management (BLM) contrasting methodology, and the rating form instructions will also be included with the Application. The discussion of impacts will also include consideration of local and regional planning documents and goals/objectives related to the visual character of the project setting.
- 9) An evaluation of potential operational effects of the Facility. Regarding the potential for glare, PV panels are designed to absorb as much of the solar spectrum as possible to maximize efficiency. There is an inverse



correlation between light absorption and reflection. Consequently, virtually all PV panels installed in recent years have at least one anti-reflective coating to minimize reflection and maximize absorption. In addition, the Facility intends to use single-axis trackers, which direct the panels at the sun for optimal energy production. An added benefit of the use of trackers is that any glare, however small, that might be generated is reflected directly back at the sun, therefore essentially eliminating any glare available to observers. In addition, operation of the Facility will not generate plumes, off-site, shading, shadow-flicker or any other visible effect. The only visual effect of the Facility is the visibility of PV panels and other Facility components. Therefore, construction and operation of the Facility is not anticipated to result in potential impacts from glare or other off-site effects (such as plumes). To demonstrate the lack of impacts anticipated from glare, the Applicant has agreed to evaluate these effects in the Article 10 Application.

- 10) An assessment of various visual impact mitigation strategies including screening (landscaping), setbacks, architectural design, visual offsets, relocating or rearranging Facility components, reduction of Facility component profiles, alternative technologies, Facility color and design, and lighting options. Mitigation will also be assessed in relation to NYSDEC Program Policy DEP-00-2 (NYSDEC, 2000).
  - 11) Identification and description of all visually sensitive resources (see (b)(4) below for additional information) within the visual study area (i.e., up to five miles from the perimeter PV arrays), and assessment of probable impacts of the Facility on these resources. Visually sensitive resources will also include any specific location identified by municipal planning representatives, DPS, DEC and OPRHP such as portions of the US Route 20 Scenic Byway and sites listed on the National Register of Historic Places. This will include discussion of potential visual impacts on residences located within the Facility Area.
- b) A viewshed analysis will be included in the VIA that identifies the locations within the visual study area where it may be possible to view the proposed PV arrays and other proposed above ground facilities from ground-level vantage points. This analysis includes identifying potentially visible areas on viewshed maps. The viewshed analysis methodology includes:
- 1) Maps showing the results of viewshed analyses based on: 1. the screening effect of topography alone, and, 2. the combined screening effect of topography, vegetation, and built structures within the environment. Viewshed analyses will be based on sample points representing solar panel locations based on the Facility Layout presented in the Application; an assumed maximum solar panel height of 10 feet; and, an assumed viewer height of six feet. To generate the viewshed analyses, sample points with an assigned height of 10 feet (representing the solar panels) will be placed 200 feet apart in a grid pattern throughout all proposed development areas within the Facility Site. These maps will be presented on the most recent edition USGS 1:24,000 scale topographic base map. Additionally, results of the viewshed analyses will also be shown on maps that depict visually sensitive sites, viewpoint locations, foreground, mid-ground, and background distances, and LSZs. The viewshed analyses will serve to document the line of sight profiles for resources of statewide concern.
  - 2) Five-mile radius viewshed maps to determine the extent of potential Facility visibility based on existing topography and vegetation, and the location and height of the proposed PV panels. A topographic viewshed map for all Facility components will be prepared using a bare earth digital elevation model ("DEM") derived from Light Detection and Ranging ("LiDAR") data; sample points representing solar panel locations based on the Facility Layout presented in the Application; an assumed maximum solar panel height of 10 feet; an assumed viewer height of six feet; and ESRI ArcGIS® software with the Spatial Analyst extension. The resulting topographic viewshed map defines the maximum area from which any solar panel sample point could potentially be seen within the study area (i.e., ignoring the screening effects of existing vegetation and built structures). A second-level analysis will be conducted to incorporate the

screening effect of structures and vegetation, as captured in LiDAR data. A digital surface model (“DSM”) of the study area has been created from these LiDAR data, which includes the elevations of buildings, trees, and other objects large enough to be resolved by LiDAR technology. There are portions of the five-mile visual study area where no LiDAR data is available. In these areas, a base vegetation layer has been created using the USGS National Land Cover Dataset (NLCD) to identify the mapped location of forest land within those portions of the visual study area where LiDAR data is not available. Based on standard visual assessment practice, the mapped locations of the forest land in these areas will be assigned an assumed height of 40 feet and added to the DEM.

- 3) Identification of visually sensitive resources using a variety of data sources including digital geospatial data (shapefiles) obtained primarily through the NYS GIS Clearinghouse or ESRI, national, state, county and local agency/program websites as well as websites specific to identified resources; the DeLorme Atlas and Gazetteer for New York State; USGS 7.5-minute topographical maps; and web mapping services such as Google Maps. Identified aesthetic resources of statewide or local significance, areas of intensive land use within five miles of the proposed Facility, and location of visually sensitive resources within the visual study will be included with the Application. Visually sensitive resources will also include any specific location identified by municipal planning representatives, DPS, DEC and OPRHP.
- 4) Identification of representative viewpoints to be used for visual simulations. Representative viewpoints will be selected based upon past and future consultation with, and feedback provided by, municipal planning representatives, DPS, DEC and OPRHP; while also balanced by the criteria below to ensure that a variety of views are represented. The Applicant will continue to conduct outreach to agency staff and stakeholder groups to determine an appropriate set of viewpoints for the development of simulations. The Applicant will include a list of visual stakeholders and copies of viewpoint selection correspondence in the Application. In addition, the Applicant will include the visual representatives on the master stakeholder list for notification of project milestones and outreach activities. This outreach has included: a) Applicant distribution of a request to appropriate agency personnel, municipal representatives, and other visual stakeholders, seeking feedback regarding the identification of important aesthetic resources and/or representative viewpoints in the Facility vicinity to inform field review efforts and the eventual selection of candidate viewpoints for the development of visual simulations; b) Following the visual fieldwork and associated data processing, the Applicant’s distribution of a memorandum related to recommendations for Visual Simulations to the visual stakeholders; and c) The Applicant hosted an on-line meeting to solicit comments from visual stakeholders on the viewpoints selected. The selected viewpoints should:
  - i) Provide open views toward the Facility site from different directions throughout the visual study area (as determined through field verification).
  - ii) Illustrate the most open views available from potentially significant public resources within the visual study area.
  - iii) Illustrate open, representative views from the various “Landscape Similarity Zones” within the visual study area, which are defined based on the similarity of features such as landform, vegetation, water, and land use patterns.
  - iv) Illustrate open views of the proposed Facility that may be available to representative viewer/user groups within the visual study area (including local residents).
  - v) Illustrate typical views of different numbers of PV panel arrays, from a variety of viewer distances, and under different lighting conditions, to illustrate the range of visual change that will occur with the Facility in place.

- 5) Photo-realistic simulations of the completed Facility from each of the selected viewpoints. As indicated in Section (b)(4) above, viewpoints to be included in the VIA will be selected, in part, for their open views and as such there will be no significant screening of the proposed Facility due to foreground vegetation in the photographic simulations. Therefore, it is not anticipated that both leaf-on and leaf-off simulations will be necessary.
- 6) The Article 10 Application will include visual simulations or other representative images that illustrate the various visual mitigation measures (such as fence styles or plantings) that are being considered for the Facility.
- 7) A composite contrast rating for each viewpoint, including viewer exposure and activity. All rating forms will be included in the Application along with a narrative description of the existing view and overall visual effect representing the nature and degree of visual change resulting from construction and operation of the Facility on scenic resources and viewers represented by each of the selected viewpoints using comments provided by the rating panel members.
- 8) Operation of the Facility will not result in any operational visual effects, such as glare, plumes, shadow-flicker, or off-site shading, other than visibility of the PV panels and other Facility components. Therefore, these types of effects will not be evaluated in the Application.

## **Stipulation 25 – 1001.25 Exhibit 25: Effect on Transportation**

Exhibit 25 shall contain:

- a) A conceptual site plan that will identify access road locations and widths, and other access roads associated with staging yards, O&M site (if applicable), and substation/switchyard locations. The preliminary design drawings prepared in support of Exhibit 11 will satisfy the requirement for the site plan required by this subpart. In addition, a Route Evaluation Study will be prepared for the Facility and included in the Article 10 Application, which will identify public road constraints (e.g., inadequate turning radii/intersections and road widths) and potential haul routes.
- b) A description of the pre-construction characteristics of roads in the area including:
  - 1) Data will be obtained from the New York State Department of Transportation (NYSDOT) Traffic Data Online Viewer to review existing traffic volumes along proposed approach and departure routes for the Facility. Accident information along those routes contained in the Accident Location Information System (ALIS) will be requested from the local police agencies and/or NYSDOT regional office. These data will be compared with the Transportation Study Area, which will be identified and presented in the Application.
  - 2) The Application will include a review of school district routes for those districts that serve the Facility Site. This will be accomplished by obtaining school bus routes, number of buses, and times from the Canajoharie Central School District, Cherry Valley Central School District, and Fort Plain Central School District that serve the Facility Area.
  - 3) A review of locations of emergency service provider stations (police, fire, ambulance, and hospitals) that serve the Facility Site, based on consultation with local emergency service providers. A map of locations and routes. In addition, during Facility operation a map of all emergency service provider locations and routes will be posted in the Facility's O&M building (if one is built) and/or provided to operations/maintenance staff (and provided to the emergency service providers).
  - 4) The Application will identify Load Restricted Bridges and/or roadways along the proposed approach and

departure routes for the Facility. For non-posted bridges along those routes, information from the NYSDOT's Highway Data Services website will be reviewed to determine potential load capacity restrictions. In addition, consultations with local highwaysupervisors will be summarized in the Application.

- 5) The Facility site is not within a congested urbanized area, therefore the parties agree 24-hour traffic counts are not applicable and will not be included in the Application.
- c) Exhibit 25(c) will contain an estimate of Facility trip generation characteristics, including:
- 1) An estimate of the number, frequency and timing of vehicle trips (including an estimate of the number of vehicles accessing each staging/parking area) will be based on the haul routes, site plan and location of Facility components as presented in the Application, along with the number of phases, estimated quantities of earthwork and materials to construct Facility. Exact scheduling of construction work and required vehicles will be determined by the Applicant's contractor. Therefore, the study to be conducted and included in the Application will only provide an estimate based on typical volume of materials and number of vehicles per PV panel module installation. The Application will tabulate construction vehicle volumes for the Facility broken down by Facility component/truck type.
  - 2) Information and routes regarding trucks carrying water, fuels, or chemicals out to 5 miles from the Facility Site.
  - 3) An estimate, based on site plan and location of Facility components in the Application, of anticipated quantities of earthwork and materials to construct facilities. An estimate based on typical volume of materials and number of vehicles per PV panel installation will be provided.
  - 4) Conceptual haul routes will be identified by an experience transportation engineer, the details of which will be included in the Application. Approach and departure routes will be based on the anticipated type of delivery vehicle to be used, and such routes will also be identified to and from the facility site (or parking areas) for construction workers and employees of the facility.
- d) Exhibit 25(d) will contain an analysis of traffic and transportation impacts of the Facility, including:
- 1) A summary of levels of service for linear segments of highways used by construction and delivery vehicles using Synchro and HCS software, which will be compared to the existing levels of service. The anticipated extent and duration of traffic interferences/delays during construction will be described.
  - 2) A Route Evaluation Study that will include anticipated delivery routes and an analysis of the adequacy of these routes to accommodate construction and operation of the Facility. This section of the Application will also include an identification of the possible extent and duration of traffic interferences resulting from construction of the Facility and any interconnections.
  - 3) An assessment of over-size load deliveries and the adequacy of existing roads to accommodate such deliveries. A turning template of anticipated delivery vehicles and a review of aerial photography and online street view maps in conjunction with driving all potentially impacted roads will be conducted to identify physical restrictions (widths, turning radius, overhead clearance). An identification of required temporary improvements and a location map will be provided and potential impacts at each temporary improvement location will be summarized.
  - 4) Identification of measures to mitigate traffic and transportation impacts, which will be presented in the Route Evaluation Study. This analysis will include any time restrictions regarding delivery of facility components

and provisions for repair of roads damaged by heavy equipment or construction activities during construction or operation of the Facility.

- 5) This section of the Application will identify and tabulate all anticipated Town, County, and State permits that will be required for construction and post-construction use of public roads, including highway work permits and special use permits from the NYSDOT. The Applicant will provide a draft road use agreement as an Appendix to the Application. This section of the Application will also generally discuss use agreements with private landowners that may be required for construction and post-construction use of private property along public roads. The Application will provide a description of all use and restoration agreements, including provisions for repair of roads damaged by heavy equipment or construction activities during construction or operation of the Facility, per 1001.25(d)(5).
- e) A description of airspace usage (including military operations) in the vicinity of the Facility using available aeronautical charts, airport approach plates, airport 5010 forms, and other available sources. No rail or bus mass transit systems will be impacted by this Facility, and therefore will not be addressed in the Application.
- f) Construction and operation of the Facility are not anticipated to affect aviation, and therefore will not be addressed in the Article 10 Application

### **Stipulation 26 – 1001.26 Exhibit 26: Effect on Communication**

The Applicant agrees to provide the information required by 1001.26(a-f). Exhibit 26 will also include an evaluation of potential impacts to data communication for the NYS Mesonet System. Further, this Exhibit will include information on the potential impacts of the Facility on local emergency communications systems.

### **Stipulation 27 – 1001.27 Exhibit 27: Socioeconomic Effects**

The Applicant agrees to provide the information required by 1001.27. The Application will include a discussion of the Facility's potential effect on local property values.

The Application will include estimates of the impact that the proposed Facility may have on the economy including:

- 1) On-site labor impacts (including peak construction employment level, and an estimate of the number of jobs and the on-site payroll, by discipline, during a typical year of operation).
- 2) Local revenue and supply chain impacts.
- 3) Induced impacts associated with the construction and operation of the Facility.
- 4) Supporting documentation used in creating its job impact estimates.

In addition, the Application will contain:

- a) An estimate of the average construction workforce, by discipline, for each quarter, during the period of construction for the Facility, including the estimated peak construction employment level.
- b) An estimate of the annual construction payroll and non-payroll expenditures associated with the Facility. This will include an estimate of the annual construction payroll by trade.
- c) An estimate of the secondary employment and economic activity associated with Facility construction. Economic multiplier factors and other assumption(s) used to generate these estimates will be described. To the extent reasonably practicable, the analysis of secondary employment and economic activity will also

reflect the economic impacts associated with any changes in the retail price of electricity as well as the economic impacts associated with the cancellation or closure of any new or existing power plants made unnecessary by the added capacity of the Facility. If such estimates cannot be reasonably made, the Applicant shall nevertheless acknowledge that such secondary employment and economic activity impacts may or may not result from the project, even though no quantitative estimate has been made.

- d) An estimate of the number of jobs, and on-site payroll by discipline for a typical year associated with Facility operation, as well as an estimate of other expenditures likely to be made in the vicinity of the Facility during operation.
- e) An estimate of secondary employment and economic activity generated by Facility operation. The Application will also include additional information associated with payments to local landowners in association with the lease agreements executed to host Facility components.
- f) A confirmation that construction and operation of the Facility is not expected to result in any incremental school district operating and infrastructure costs.
- g) A confirmation that construction and operation of the Facility is not expected to result in any incremental costs to local municipalities, authorities, or utilities.
- h) A list of jurisdictions that will collect taxes or benefits from construction and operation of the Facility
- i) An estimate and details of annual taxes and payments to be paid by the Facility to the jurisdictions listed in 1001.27(h).
- j) A comparison of incremental costs and incremental benefits to jurisdictions resulting from construction and operation of the Facility.
- k) A discussion of any potential equipment or training deficiencies in the local emergency response capacity as it relates to the needs of the Facility.
- l) A discussion of the Facility's consistency with the State Smart Growth Public Infrastructure criteria.

### **Stipulation 28 – 1001.28 Exhibit 28: Environmental Justice**

Exhibit 28 shall contain a statement that the Facility and Off-site Ancillary Facilities are not expected to have any impacts on Environmental Justice areas. There are no Potential Environmental Justice Areas in the Study Area. The nearest Potential Environmental Justice Area to the Facility is within the Town of Johnstown, which is approximately 10 miles northeast of the Facility boundary. This exhibit will contain a map showing the Facility and Off-site Ancillary Facilities relative to the nearest potential Environmental Justice Area.

### **Stipulation 29 – 1001.29 Exhibit 29: Site Restoration and Decommissioning**

Exhibit 29 shall contain:

- a) The Applicant agrees to provide the information required by 1001.29(a).
- b) The Applicant agrees to provide the information required by 1001.29(b), including:
  - 1) A detailed estimate to support the proposed decommissioning and site restoration funding upon the cessation of operation of the Facility based on the expected solar panel(s) to be used and actual decommissioning and site restoration costs from other similar projects, if available. The decommissioning plan will include details of the methodology for removal of the equipment, salvage value, wage assumptions for future equipment removal, and periodic updates to the cost estimates and value of financial surety.

- 2) The Application shall include the proposed type of, and justification for, the financial assurance that will be provided for decommissioning activities. The justification shall include a brief description of potential financial assurance options and an explanation as to why each option is a reasonable form of financial assurance.
- 3) The Applicant shall include in the plan, a discussion on notifying Towns and landowners prior to decommissioning and site restoration activities.
- 4) The Applicant shall include a description of proposed decommissioning activities and schedule for completion of these activities.
- 5) The Application will include a discussion of decommissioning and site restoration as they relate to future agricultural land use. Decommissioning and site restoration plans will follow the NYSDAM guidelines.
- c) The Applicant agrees to provide the information required by 1001.29(c).
- d) Information related to nuclear power facilities will not be included in the Application.

### **Stipulation 30 – 1001.30 Exhibit 30: Nuclear Facilities**

The proposed Facility is not a nuclear facility, and as such, the requirements of 1001.30 are not applicable, and will not be included in the Article 10 Application.

### **Stipulation 31 – 1001.31 Exhibit 31: Local Laws and Ordinances**

During preparation of the Application, the Applicant will continue to consult with the host municipalities with local laws and ordinances applicable to the proposed Facility will, therefore, be identified and addressed in Exhibit 31 of the Application. Exhibit 31 will be used to determine whether all applicable local laws and ordinances have been identified and whether any potential request by the Applicant that the Siting Board elect to not apply any such local requirement could be avoided by design changes to the proposed Facility.

The Application will include information on only those local laws and ordinances applicable in the municipalities in which the Facility is proposed to be located. At this time, the Facility is proposed in the Towns of Canajoharie and Minden, and therefore this Stipulation includes potentially applicable Local Laws and Ordinances from those towns.

- a) An updated list of applicable local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature required (at the time of Application submittal) for the construction (including maintenance of construction equipment) or operation of the proposed Facility. A copy of all local laws obtained by the Applicant and/or provided by the host municipalities, including maps, figures, tables and other attachments to local laws (assuming such information is readily available), will be included as an appendix to the Application. The Applicant will also provide copies of all Memoranda of Lease available for properties upon which facility components will be located.

The procedural local laws and ordinances potentially applicable to the Facility as currently proposed include, but may not be limited to,<sup>1</sup> the following:

Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System):

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<sup>1</sup> This section will include all procedural local ordinances enacted up to the time of Application.

- § C 1 Site Plan
- § C 3 (b) Visual
- § C 4 Lighting
- § C 5 Utilities
- § C 8 Ownership
- § C 9 Proof of Insurance
- § C 12 Inspections
- § D Performance Bond and Other Security
- § E Building Permit

Town of Canajoharie Local Law No. 1 of 2004 providing for Enforcement of the State Uniform Fire Prevention and Building Code:

- § 5 Building Permit
- § 6 Fees
- § 7 Certificate of Occupancy
- § 8 Inspection

Town of Canajoharie Local Law No. 2 of 2001 providing for the Subdivision Law of the Town of Canajoharie

Town of Canajoharie Local Law No. 1 of 1977 providing for Written Notification of Defects and Obstructions on Town Highways, Bridges, Culverts and Sidewalks

Town of Canajoharie Ordinances:

- Subdivision Law, Article III, Procedure
- Subdivision Law, Article VIII, Fees and Reimbursable Costs
- Zoning, Article VII, Special Use Permits
- Zoning, Article IX, Site Plan Review
- Zoning, Article X, Permits and Certificates
- Zoning, Article X, Inspections
- Zoning, Article XI, B 2, Appeal for Variance
- Zoning, Article XI, B 3, Procedure
- Zoning, Article XI, B 4, Referral to Montgomery County Planning Department

Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24:

- § D 2 Applications, Permits and Approvals
- § E 1 Decommission Plan

Town of Minden Local Law No. 1 of 2015 providing for Road Preservation – Chapter 75, Article II:

- § 75-11 Activities Requiring Road Preservation Vehicle Permit
- § 75-14 Application; Permit Requirements; Approval Process
- § 75-16 Highway Permit Bond/Maintenance Bond; Escrow Account
- § 75-19 Fees



Town of Minden Local Law No. 2 of 2000 providing for Fire Prevention and Building Construction – Chapter 50:

- § 50-10 Building Permits
- § 50-11 Certificate of Occupancy
- § 50-14 Inspections
- § 50-14 Fees

Town of Minden Ordinances:

- Chapter 77 (Subdivision of Land), Article I, General Provisions
  - § 77-4 Fees
- Chapter 77 (Subdivision of Land), Article III, Review and Approval Procedure
- Chapter 77 (Subdivision of Land), Article IV, Documents to be Submitted
- Chapter 77 (Financial Guaranties for Public Improvements), Article VI
- Chapter 90 (Zoning), Article VII, Site Plan Approval and Special Permits
- Chapter 90 (Zoning), Article XI, Administration –
  - § 90-58 Building Permit
  - § 90-59 Certificate of Occupancy
- Chapter 90 (Zoning), Article XII, Zoning Board of Appeals –
  - § 90-62 Powers and Duties

- b) All local procedural requirements are supplanted by Article 10 unless otherwise requested by the Applicant or expressly authorized by the Board. At this time, the Applicant has not identified any local procedural requirements requiring Board authorization. To the extent the Towns require any permit or approval to perform work within the Towns' right-of way, or on the Towns' roads, the Applicant will request that the Siting Board grant the Towns authority to issue such permits or approvals. The Applicant will work with the Towns to follow their procedural and substantive requirements for the permitting of highway work permits as these issues are primarily of local concern and ministerial in nature.
- c) The Applicant agrees to provide the information required by 1001.31(c).
- d) An updated list of applicable local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required (at the time of Application submittal) for the construction or operation of the proposed Facility, including local solar energy laws. Copies of zoning, flood plain, and similar maps, tables and/or documents related to local substantive requirements will be included in the Article 10 Application.

The substantive local laws and ordinances potentially applicable to the Facility as currently proposed include, but may not be limited to,<sup>2</sup> the following:

Town of Canajoharie Local Law No. 2 of 2017 providing for Solar Energy Systems Rules and Regulations – Article VI, Part C. 14 (Utility-Scale Solar Collector System):

- § B 1-3 Bulk and Area Requirements
- § C 2 Signage

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<sup>2</sup> This section will include all substantive local ordinances enacted up to the time of Application.

- § C 3 Visual
- § C 4 Lighting
- § C 5 Utilities
- § C 6 Access
- § C 7 Glare and Heat
- § C 10 Security
- § C 11 Noise
- § C 12 Inspections
- § C 13 Decommissioning
- § D Removal of Facilities

Town of Canajoharie Local Law No. 1 of 2004 providing for Enforcement of the State Uniform Fire Prevention and Building Code:

- § 8 Inspection
- § 9 Violations
- § 10 Stop Work Orders

Town of Canajoharie Local Law No. 2 of 2001 providing for the Subdivision Law of the Town of Canajoharie

Town of Canajoharie Local Law No. 2 of 1985 establishing an Electrical Code

Town of Canajoharie Ordinances:

- Subdivision Law, Article VI, Design Standards
- Subdivision Law, Article VII, Minimum Required Improvements
- Zoning, Article III, Use Regulations –
  - § A General
  - § B Schedule of Land Use Regulations
- Zoning, Article IV, Area and Bulk Regulations –
  - § A General
  - § B Density Standard
  - § C Schedule of Area and Bulk Regulations
- Zoning, Article VI, Supplementary Regulations –
  - § A.1 General Performance Standards Applicable to All Uses
  - § A.2 Accessory Uses and Structures
  - § A.3 Parking Requirements
  - § A.6 Protection of Agriculture from Potentially Incompatible Uses
  - § B.1 Accessory Uses and Structures
  - § C.11 Personal Wireless Service Facilities
- Zoning, Article VII, Special Use Permits
- Zoning, Article IX, Site Plan Review
- Zoning, Article X, Administration and Enforcement
- Zoning, Article XI. B, Powers and Duties
- Zoning, Article VII, Special Use Permits

Town of Minden Local Law No. 1 of 2017 providing for Solar Facilities – § 90-52.24:

- § B 3 Applicability
- § D 1 Applicability
- § D 2 Applications
- § D 3 General Provisions

- § E Abandonment or Decommissioning

Town of Minden Local Law No. 1 of 2016 providing for Real Property Tax Exemptions – Chapter 83:

- § 83-19 Opt-out of Exemption

Town of Minden Local Law No. 1 of 1986 providing for Electrical Standards – Chapter 45:

- § 45-2 National Electrical Code

Town of Minden Ordinances:

- Chapter 45 (Electrical Standards)
  - § 45-3 Electrical Inspection
  - § 45-4 Violations
- Chapter 50 (Fire Prevention and Building Construction)
- Chapter 75 (Streets and Sidewalks), Article II, Road Preservation
  - § 75-8 Applicability
  - § 75-11 Activities Requiring Road Preservation Vehicle Permit
  - § 75-14 Application
  - § 75-16 Highway Permit Bond/Maintenance Bond
  - § 75-17 Multiple Permits
  - § 75-18 Injunctions
- Chapter 77 (Subdivision of Land), Article I, General Provisions
- Chapter 77 (Subdivision of Land), Article III, Review and Approval Procedure
- Chapter 77 (Subdivision of Land), Article IV, Documents to be Submitted
- Chapter 77 (Subdivision of Land), Article V, Design Standards and Required Improvements
- Chapter 77 (Subdivision of Land), Article VI, Financial Guaranties for Public Improvements
- Chapter 77 (Subdivision of Land), Article VII, Miscellaneous Provisions
- Chapter 90 (Zoning), Article III, Districts and Boundaries
- Chapter 90 (Zoning), Article IV, Use Regulations
- Chapter 90 (Zoning), Article V, Area and Height Regulations Lots, Yards and Buildings
  - § 90-13 Regulations in Schedule A
  - § 90-14 Area Regulations
  - § 90-15 Height Regulations
- Chapter 90 (Zoning), Article VI, Preservation Overlay Districts
- Chapter 90 (Zoning), Article VII, Site Plan Approval and Special Permits
- Chapter 90 (Zoning), Article VIII, Supplementary Regulations –
  - § 90-30 General Land use Performance Standards
  - § 90-31 Personal Wireless Service Facilities
  - § 90-35 Accessory Buildings
  - § 90-38 Signs
  - § 90-40 Landscaping Requirements
  - § 90-46 Exterior Lighting
  - § 90-49 Public Utility and Facilities
  - § 90-51 Sanitary Regulations
- Chapter 90 (Zoning), Article IX, Off-Street Parking and Loading
- Chapter 90 (Zoning), Article XI, Administration
  - § 90-58 Building Permit
  - § 90-59 Certificate of Occupancy

- § 90-60 Penalties for offenses
  - Chapter 90 (Zoning), Article XII, Zoning Board of Appeals
  - § 90-62 Powers and Duties
- e) The Applicant agrees to provide the information required by 1001.31(e) based on consultations with the Towns. The Applicant will attempt to comply with local substantive requirements. To the extent that the Applicant cannot comply, the Applicant intends to seek variances from substantive requirements. Any substantive local laws with which the Applicant could not comply or otherwise obtain a variance will be listed in the Application with a request that the Siting Board not apply such law(s) with a statement justifying the request.
- f) The Facility is not anticipated to require permits related to the use of water, sewer, or telecommunications. Therefore, it is assumed that no local laws or ordinances of a procedural nature relating to the use of essential services are relevant at this time. To the extent such permits or approvals are required, the Applicant will comply with all such requirements and agrees to provide the information required by 1001.31(f).
- g) The Applicant agrees to provide the information required by 1001.31(g).
- h) The Applicant agrees to provide the information required by 1001.31(h).
- i) The Applicant agrees to provide a summary table that has two columns, one consisting of applicable substantive requirements to the Facility and the second containing a description of how the Applicant plans to adhere to those requirements. To the extent that the Applicant intends to seek relief from substantive local zoning requirements, the Application will identify those requirements and explain why they would be unreasonably burdensome as applied to the Facility.
- j) The Applicant agrees to identify the zoning designation or classification of all lands constituting the Facility site, and to provide a statement of the language in the zoning ordinance or local law by which it is indicated that the proposed Facility is a permitted use at the proposed site.

### Stipulation 32 – 1001.32 Exhibit 32: State Laws and Regulations

The parties hereby stipulate and agree to the following:

- a) The following is a listing of state approvals, consents, permits, or other conditions of a procedural nature which may be required for the construction or operation of the proposed Facility, as summarized in the following table:

**Table 2.32-1. List of All State Approvals for the Construction and Operation of the Facility that are Procedural in Nature and supplanted by PSL Article 10**

State Agency	Requirement	Discussion
New York State Department of Environmental Conservation	Water Quality Certification (WQC), Section 401 of the Clean Water Act	The request for a 401 WQC will not be filed until a federal U.S. Army Corps of Engineers permit application is filed (if necessary). Under the Siting Board regulations, the WQC will be issued by the Siting Board.
New York State Office of Parks, Recreation, and Historic Preservation (OPRHP)	Consultation Pursuant to §14.09 of the New York State Historic Preservation Act	The Applicant has initiated (and will continue) consultation with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) to ensure compliance with §14.09 of the New York State Historic Preservation Act.

State Agency	Requirement	Discussion
New York State Department of Environmental Conservation	Endangered and Threatened Incidental Take Permit Article 11, 6 NYCRR Part 182	The NYSDEC may issue a license or permit to “take” any species listed as endangered or threatened. This permit may be required if, in consultation with state agencies, it is determined that the project could result in incidental take of any state-listed endangered or threatened fish or wildlife species from occupied habitat. If this permit is required, the procedural requirements are supplanted by Article 10.
New York State Department of Environmental Conservation	Permit for Protection of Waters Article 15, 6 NYCRR Part 608	This permit would be required for the crossing of protected streams by Facility components. Protected streams are particular portions of streams designated by the NYSDEC with one of the following classifications: AA, AA(t), A, A(t), B, B(t) or C(t). The permit is required for any change, modification, or disturbance of any protected streams, streambeds, or stream banks. If this permit is required, the procedural requirements are supplanted by Article 10.
New York State Department of Environmental Conservation	Permit for Freshwater Wetlands Article 24, 6 NYCRR Part 663	This permit would be required for the crossing of regulated freshwater wetlands or adjacent areas by Facility components. Regulated freshwater wetlands are designated and mapped by the NYSDEC, and are generally 12.4 acres or larger. Around every regulated freshwater wetland is an adjacent area of 100 feet that is also regulated to provide protection for the wetland. If this permit is required, the procedural requirements are supplanted by Article 10.
New York State Department of Environmental Conservation	SPDES General Permit for Construction Activity	This permit is required for construction projects that disturb one or more acres of soil. In accordance with 16 NYCRR 1001.32(a) this is identified as a state procedural requirement issued by the NYSDEC pursuant to federal recognition of state authority. This approval is subject to review by the NYSDEC independent of the Article 10 process.
New York State Public Service Commission	Certificate of Public Convenience and Necessity NY PSL §68	No electric corporation shall begin construction of an electric plant, having a generating capacity of at least 80 MW, without first having obtained the permission and approval of the commission. The procedural requirements of Section 68 are supplanted by Article 10.

As indicated in the table above, some of these state procedural requirements are supplanted by PSL Article 10, except for permits to be issued by the NYSDEC pursuant to Federal recognition of State authority, or pursuant to federally delegated or approved authority, in accordance with the Clean Water Act, the Clean Air Act (as implemented by the State Pollutant Discharge Elimination System), and the Resource Conservation and Recovery Act, and permits pursuant to Section 15-1503, Title 9 of Article 27, and Articles 17 and 19 of the ECL, unless the Board expressly authorizes the exercise of such authority by the state agency. In addition, certain grants of authority for property rights are not supplanted by Article 10.

- b) The Applicant agrees to provide the information required by 1001.32(b).
- c) The following is a complete listing of all state approvals, consents, permits, or other conditions of a substantive nature which may be required for the construction or operation of the proposed Facility:
  - i. Water Quality Certification (WQC), Section 401 of the Clean Water Act 6 NYCRR Part 621.4e (Water Quality Certifications in Accordance with Section 401 of the Clean Water Act)
  - ii. Consultation Pursuant to Section 14.09 of the New York State Historic Preservation Act

- iii. Endangered and Threatened Incidental Take Permit Standards Article 11, 6 NYCRR Part 182.12
  - iv. Permit for Protection of Waters, Article 15, 6 NYCRR Part 608.7b (Permit Application Review) and 608.8 (Standards)
  - v. Permit for Freshwater Wetlands, Article 24, 6 NYCRR Part 663.5 (Standards for Issuance of Permits and Letters of Permission)
  - vi. SPDES General Permit for Construction Activity, Article 3, 6 NYCRR Part 750-1.11 (Application of Standards, Limitations, and other Requirements)
  - vii. NYS Highway Work Permit
  - viii. NYS Highway Use and Occupancy Permit
  - ix. NYS Oversize Delivery Permit
- d) The Applicant agrees to provide the information required by 1001.32(d).
- e) To the extent that off-site ancillary features, which are not considered party of the Major Electric Generating Facility are needed a list of all state approvals, consents, permits, certificates, or other conditions for the construction and operation of said offsite ancillary features will be listed in the Application.

### **Stipulation 33 – 1001.33 Exhibit 33: Other Applications and Filings**

Exhibit 33 shall contain:

The Applicant agrees to provide the information required by 1001.33, including but not limited to the following:

- a) A description of the SPDES General Permit process subject to ECL Article 17, Title 8 and 6 NYCRR Part 750,
- b) A description of the requisite NYS PSL §68 Certificate of Public Convenience and Necessity process,
- c) A description of the requirements associated with Highway Work Permit and Use and Occupancy Permit requirements of the NYS Department of Transportation, and;
- d) Any current participation by the Applicant, that is in the public domain, in renewable energy markets/RFPs.

### **Stipulation 34 – 1001.34 Exhibit 34: Electric Interconnection**

Exhibit 34 shall contain:

- a) The number and specifications for the inverters, as well as the length and anticipated number of circuits for the electrical collection system will be described in the Application, along with the design voltage and voltage of initial operation.
- b) The length of the collection system, broken down by anticipated length of overhead (if any) and underground lines, will be described in the Application. Typical details related to conductors will also be included, as described in Stipulation 11(g).
- c) On overhead sections of the collection line, typical utility-grade ceramic/porcelain or composite/polymer insulators, designed and constructed in accordance with ANSI C29, are anticipated to be used. Insulators in the POI substation are anticipated to be porcelain. That information will be described in the Application.
- d) The Facility is not proposed to include a transmission line.
- e) Overhead collection lines are not anticipated for the Facility. However, if it is determined that they will be used, typical dimensions and construction materials of the support structures will be included in the

Application.

- f) Overhead collection lines are not anticipated for the Facility. However, if it is determined that they will be used, the design standards for the overhead collection line pole and foundation will be described in this exhibit.
- g) The type of cable system to be used and the design standards for that system.
- h) A typical drawing of the underground collection cable and associated material will be provided in this Exhibit. Underground collection cables will be buried at a minimum depth of 4 feet in agricultural areas.
- i) The POI substation equipment and collection substation will be described in this Exhibit, which will also include a plan/overview of the POI substation and collection substation.
- j) Description of POI and collection substation as the terminal facilities.
- k) The potential need for cathodic protection measures will be discussed in the Article 10 Application.

### **Stipulation 35 – 1001.35 Exhibit 35: Electric and Magnetic Fields**

Exhibit 35 shall contain:

- a) None of the electrical lines from the PV panels to the collection station/POI station will exceed 34.5 kV; therefore, the Facility will not have a (ROW) associated with high voltage transmission power lines. However, the Application will identify 34.5 kV ROW segments with unique EMF characteristics, which will be evaluated in the EMF study. Modeling calculations will identify existing EMFs and future EMFs that would result from construction and operation of the Facility. For the purposes of calculations, the ROW is assumed to be 50 feet (25 feet from centerline) for all of the segments. The Article 10 Application will identify the name and calculation number of each segment.
- b) For each of the unique ROW segments, the EMF study will provide both base case (where existing facilities are present) and proposed cross sections that show:
  - 1) Any known overhead electric transmission, sub-transmission, and distribution facilities showing structural details and dimensions and identifying phase spacing, phasing, and any other characteristics affecting EMF emissions;
  - 2) Any known underground electric transmission, sub-transmission (i.e., 34.5 kV collection system), and distribution facilities;
  - 3) ROW boundaries; and
  - 4) Structural details and dimensions for all structures (dimensions, phase spacing, phasing, and similar categories) and an overview map showing locations of structures.
- c) The EMF study to be included in the Article 10 Application will include a set of aerial photos/drawings showing the exact location of each unique ROW segment and each cross-section, and any residences or occupied buildings within the ROW segments. If no residence or occupied building is within the ROW segments, the measurement of the distance between the edge of the ROW segment and the nearest residence or occupied building will be provided.
- d) The Application will include an EMF study with calculation tables and field strength graphs calculated at one meter above ground level with five-foot measurement intervals depicting the width of the entire right of way and out to 500 feet from the edge of the right of way on both sides for each unique ROW cross section. The EMF Study will also include:

- 1) A signature and stamp/seal by a licensed professional engineer registered and in good standing in the State of New York.
- 2) The name of the computer software program used to model the facilities and make the calculations.
- 3) The EMF study will model the strength and locations of electric fields to be generated by the Facility. Modeling will be conducted at rated voltage, and the measurement location and interval will be described in the Application. Electric field strength graphs depicting electric fields along the width of the entire ROW, and out to the property boundary of the Facility, will be included in the EMF study. Digital copies of all input assumptions and outputs for the calculations will be provided under separate cover.
- 4) The EMF study will model the strength and locations of magnetic fields to be generated by the Facility. Modeling will be conducted at rated voltage, and the measurement location and interval will be described in the Application. There is no expected change in amperage under any of the following conditions: summer normal, summer short term emergency, winter normal, winter short term emergency. Therefore, the magnetic field modeling to be performed will be applicable to any of these conditions. Magnetic field strength graphs depicting magnetic fields along the width of the entire ROW and out to the property boundary of the Facility will be included in the EMF study. Digital copies of all input assumptions and outputs for the calculations are being provided under separate cover.
- 5) There is no expected change in amperage in maximum average load initially versus for 10 years after initiation of operation. Therefore, the modeling of magnetic fields described above in 1001.35(d)(4) (including both the graphs and tables included in the EMF study) will be applicable to both initial operation and operation after 10 years.
- 6) There are no proposed high voltage transmission lines, therefore the parties agree this analysis is not applicable to the proposed Facility.

### **Stipulation 36 – 1001.36 Exhibit 36: Gas Interconnection**

The proposed Facility will not require gas interconnection, and as such, the requirements of 1001.36 are not applicable and will not be included in the Article 10 Application.

### **Stipulation 37 – 1001.37 Exhibit 37: Back-up Fuel**

The proposed Facility will not require back-up fuel, and as such, the requirements of 1001.37 are not applicable and will not be included in the Article 10 Application.

### **Stipulation 38 – 1001.38 Exhibit 38: Water Interconnection**

The proposed Facility will not require water interconnection, and as such, the requirements of 1001.38 are not applicable and will not be included in the Article 10 Application; however, water supply needs for the O&M building (if applicable) or other facilities will be explained in the Application.

### **Stipulation 39 – 1001.39 Exhibit 39: Wastewater Interconnection**



The proposed Facility will not require wastewater interconnection, and as such, the requirements of 1001.39 are not applicable and will not be included in the Article 10 Application.; however, wastewater treatment at the O&M building (if applicable) or other Facility facilities will be explained in the Application.

#### **Stipulation 40 – 1001.40 Exhibit 40: Telecommunications Interconnection**

Generally, it is not anticipated that the Facility will require telecommunication interconnections as defined by Article 10, 16 NYCRR 1000.40, in that new off-site telecommunication lines are not anticipated at this time. Exhibit 40 shall contain:

- a) information on the Facility's meter location, the means of providing the operational data to National Grid, and the secure communications network for this operational data.
- b) information regarding a high-speed internet (T-1 or other provider) to be established, and the means of transmitting the necessary data and other information to the appropriate parties for monitoring and reporting purposes.

#### **Stipulation 41 – 1001.41 Exhibit 41: Application to Modify or Build Adjacent**

The proposed Facility will not require any application to modify or build adjacent, and as such, the requirements of 1001.41 are not applicable and will not be included in the Article 10 Application.

March 1, 2019

IN WITNESS WHEREOF, the parties hereto have caused identical counterparts of this Agreement, each of which shall constitute an original, to be duly executed and delivered:

**Mohawk Solar, LLC**

**As to all Stipulations identified above agree:**

LEGAL  
IN

By: \_\_\_\_\_

Name: Jesse Gronner

Dated: \_\_\_\_\_ Authorized Representative

Jeremy Aird  
Authorized Representative

**New York State Department of Public Service**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**New York State Department of Environmental Conservation**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**New York State Department of Health**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**New York State Department of Agriculture and Markets**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Canajoharie**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Minden**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused identical counterparts of this Agreement, each of which shall constitute an original, to be duly executed and delivered:

**Mohawk Solar, LLC**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**New York State Department of Public Service**

**As to all Stipulations identified above agree:**

By: 

Name: Graham Jesmer, Assistant Counsel

Dated: 4/2/19

**New York State Department of Environmental  
Conservation**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**New York State Department of Health**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**New York State Department of Agriculture and Markets**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Canajoharie**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Minden**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

March 1, 2019

IN WITNESS WHEREOF, the parties hereto have caused identical counterparts of this Agreement, each of which shall constitute an original, to be duly executed and delivered:

**Mohawk Solar, LLC**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**New York State Department of Public Service**

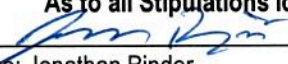
**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

Signed as to stipulations 1, 2, 3, 4, 6,  
7, 8, 9, 10, 11, 16, 17, 21, 22, 23, 28,  
30, 32, 33, 36, 37, 38, 39, and 41

**New York State Department of Environmental  
Conservation**

**As to all Stipulations identified above agree:**

By:  \_\_\_\_\_  
Name: Jonathan Binder  
Dated: 4/4/19

**New York State Department of Health**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**New York State Department of Agriculture and Markets**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Town of Canajoharie**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Town of Minden**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused identical counterparts of this Agreement, each of which shall constitute an original, to be duly executed and delivered:

**Mohawk Solar, LLC**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**New York State Department of Public Service**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**New York State Department of Environmental  
Conservation**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**New York State Department of Health**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**New York State Department of Agriculture and Markets**

**As to all Stipulations identified above agree:**

By: Tara B. Wells  
Name: TB  
Dated: 4/29/19

**Town of Canajoharie**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Town of Minden**

**As to all Stipulations identified above agree:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Town of Canajoharie**

As to all Stipulations identified above agree, except to the extent that any decisions by the Town's Planning Board or Zoning Board of Appeals relating to the Applicant's Project departs from such Stipulations. The Town further reserves its right to withdraw its agreement to the Stipulations in the event that the Applicant does not submit a valid Application under Article 10 of the New York Public Service Law within twelve (12) months of such agreement and reserves all other rights to the extent permitted by applicable law.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Minden**

As to all Stipulations identified above agree, except to the extent that any decisions by the Town's Planning Board or Zoning Board of Appeals relating to the Applicant's Project departs from such Stipulations. The Town further reserves its right to withdraw its agreement to the Stipulations in the event that the Applicant does not submit a valid Application under Article 10 of the New York Public Service Law within twelve (12) months of such agreement and reserves all other rights to the extent permitted by applicable law.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_

**Town of Canajoharie**

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By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Dated: \_\_\_\_\_

**Town of Minden**

As to all Stipulations identified above agree, except to the extent that any decisions by the Town's Planning Board or Zoning Board of Appeals relating to the Applicant's Project departs from such Stipulations. The Town further reserves its right to withdraw its agreement to the Stipulations in the event that the Applicant does not submit a valid Application under Article 10 of the New York Public Service Law within twelve (12) months of such agreement and reserves all other rights to the extent permitted by applicable law.

By: Cheryl A. Reese  
Name: Cheryl A. Reese  
Dated: 3/26/19