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May 12, 2020

James A. Muscato II, Esq.
Young / Sommer LLC
Executive Woods, Five Palisades Drive,
Albany, NY 12205
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RE: Case 16-F-0546 - Application of Heritage Wind, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for Construction of the Heritage Wind Project Located in the Town of Barre, Orleans County.

Dear Mr. Muscato,

Upon a preliminary review of the Application submitted by Heritage Wind, LLC on March 13, 2020, the Application, as submitted, is not filed or otherwise in compliance with §164 of the Public Service Law (PSL). The deficiencies identified must be remedied or otherwise cured before the Application can be deemed to comply with PSL §164 and the public hearing can be commenced pursuant to PSL §165.

The Applicant must comply with all relevant filing requirements contained in 16 NYCRR §1001 through 16 NYCRR §1001.41 in addition to the Stipulations that were filed with the Secretary on January 23, 2020. The identified deficiencies in the Application are listed in the attachment to this letter.

Please note that the Heritage Wind, LLC is required to serve a copy of the information it files as a supplement in order to remedy the identified deficiencies on all entities entitled to receive a copy of the Application pursuant to PSL §164, as well as any additional parties on any established Party List in this proceeding.

Please contact Heather Behnke, Assistant Counsel at 518-474-5474 if you need

further assistance.

My staff is committed to responding as expeditiously as possible to your responses.

Sincerely,

A handwritten signature in black ink that reads "John B. Rhodes". The signature is written in a cursive style with a large initial "J" and "B".

John B. Rhodes, Chair

cc: Service List

Attachment

ATTACHMENT A

Exhibit 4 – Land Use

1. 16 NYCRR §1001.4(c) requires “a map of all properties upon which any component of the major electric generating facility or the related facilities would be located, ... and all properties within 2,000 feet of such properties, that shows ... the tax parcel number and owner of record of each property.” Sheets 1 and 5 of Figure 4-4 do not display the owner of record for all properties within 2,000 feet of the Facility Site, specifically, parcels located northeast of the proposed Facility Site. Additionally, Sheet 3 does not indicate tax parcel numbers or the owner of record for smaller properties along Maple Street and Oak Orchard Road. Please provide a revised map that displays the tax parcel number and owner of record for all required parcels.
2. 16 NYCRR §1001.4(d) requires “A map of existing zoning districts, and proposed zoning districts within the study area, including a description of the permitted and the prohibited uses within each zone.” Exhibit 4 refers to Appendix 4-A for a description of permitted uses, as well as Exhibit 31 for additional details. Appendix 4-A provides this information for most of the applicable towns and villages, yet not for the Town of Barre. Furthermore, it is noted on page 24 of Exhibit 31 that “the Facility Site will be located in the Agricultural-Residential (A/R), Residential (R-1) and General Business (B) zoning districts. Wind energy generation is a permitted use in any of the Town’s zoning districts, subject to acquisition of applicable permits under the Wind Energy Overlay section of the Barre Town Law.” However, Exhibit 31 only identifies the requirements related to the Wind Energy Overlay District and not those related to the three other districts mentioned. Please supplement the Application with a description of the permitted and prohibited uses within the Town of Barre's Agricultural-Residential (A/R), Residential (R-1) and General Business (B) zoning districts.

Exhibit 11 – Preliminary Design Drawings

3. 16 NYCRR §1001.11(a) requires “A site plan showing all buildings, structures, driveways, parking areas, emergency access lanes, sidewalks, access ways and other improvements at the facility site, depicting the proposed site in relation to adjoining properties, and depicting the layout of onsite facilities and ancillary features. Additional drawings shall be included depicting the layout of all offsite facilities and ancillary features.” The Application includes inconsistent information regarding the proposed width of access roads. Details of Appendix 11-A indicates a proposed permanent width of 16 feet, which conflicts with the typical access width listed in the Decommissioning Plan (Confidential Appendix 29-A). Please provide clarification regarding the proposed access road width and, if necessary, include updated site plans and details showing the proper width of proposed access roads.
4. Section 2.11(a) of the Final Scoping Statement stipulates that the Site Plans include the “Applicant’s and any local law setbacks for turbines from occupied structures, property lines, existing and proposed transmission lines, and roads (may be provided

- as separate map-set if site plans are too cluttered because of this information).” Exhibit 11 states that this information is provided separately in Figure 6-1. Exhibit 6 states that setbacks shown in Figure 6-1 are based on the tallest model listed, which is 675 feet. However, some setbacks of the mapping are seemingly not based on the tallest model (tip height listed as 675'). Based on the 675' tip height, the legend/mapping of Figure 6-1 includes incorrectly referenced setback values and circles for certain requirements. Please provide an updated Figure 6-1 showing the correct setbacks based on the tallest listed model (listed as 675') of Exhibit 6.
5. Section 2.11(a) of the Final Scoping Statement stipulates Site Plans depicting property line setbacks for the proposed collection substation, POI, and O&M building. Sheet C-218 of Appendix 11-A, part 4, or other drawings of the Application do not include local setbacks related to the proposed collection substation, POI, and O&M building. Please update Sheet C-218 of Appendix 11-A, part 4, and/or other plans of the Application to include setbacks of the collection substation, POI, and O&M building.
 6. 16 NYCRR §1001.11(f) requires “Architectural drawings including building and structure arrangements and exterior elevations for all buildings and structures, indicating the length, width, height, material of construction, color and finish of all buildings, structures, and fixed equipment.” Appendix 5-B, Part 4, includes a general layout of the collector substation, showing numerous elevation bubble arrows pointing at structures. However, there are no accompanying elevation views on this or other drawings of the Application. Further, the Application does not include architectural drawings for the POI switchyard. Please provide a Supplemental filing including structure arrangements and exterior elevation drawings for the collection substation and POI switchyard, indicating the length, width, height, material of construction, color and finish of all buildings, structures, and fixed equipment.¹
 7. Section 2.11(g) of the Final Scoping Statement stipulates that “Preliminary Design Drawings will also include a plan and sections of underground facilities, including single and multiple-circuit layouts with dimensions of anticipated 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; elevations for overhead facilities, collection (if applicable) and transmission lines including height above-grade, structure layouts, clearing width limits for construction and operation, permanent ROW widths, average span lengths for each proposed layout, and structure separation requirements (for installations requiring more than one pole, etc.) for all single and multiple-circuit layouts; and a circuit map indicating overhead and underground installations and the number of circuits per proposed run.” None of the details for underground and overhead collection circuits listed above, as required by Stipulation 11(g), are provided in the Application. Please provide a

¹ Appendix 5-B, Part 4, also appears to show an incorrectly oriented north arrow when compared with other design drawings of the Application. Please also address this in any updated filings.

Supplement to the Application including the typical section/elevation details of the underground and overhead (if any) collection lines and interconnection structures as described above and detailed in executed Stipulation 11(g).

Exhibit 13 – Real Property

8. 16 NYCRR §1001.13(a) requires “A survey of the facility site showing property boundaries with tax map sheet, block and lot numbers; the owner of record of all parcels included in the site and for all adjacent properties; easements, grants and related encumbrances on the site parcels; public and private roads on or adjoining or planned for use as access to the site; zoning and related designations applicable to the site and adjoining properties, except that for wind facilities a map may be used instead of a survey to fulfill this requirement.” The owners of record of all parcels included within the Facility Site and for all adjacent properties were not provided (see the related deficiency regarding 16 NYCRR §1001.4(c) above). Please submit a revised figure and/or associated table that displays the owner of record of all parcels included within the Facility Site and for all adjacent properties.

Exhibit 15 – Public Health and Safety

9. Section 2.15(e)(1) of the Final Scoping Statement stipulates that “[t]he The Article 10 Application will include the results of a literature review to identify the potential public health and safety concerns associated with potential blade throw and tower collapse. This literature review will be drawn from peer-reviewed articles, technical journals, and papers prepared by government agencies to identify potential public health and safety impacts, as well as any relevant manufacturer recommendations and local requirements, to the extent available/applicable. The Article 10 Application will include setback distances for the proposed Facility to protect the public from tower collapse and blade throw, which are based on the dimensions of the wind turbines. A discussion of manufacturer recommendations (if applicable) and local provisions will also be provided.” Exhibit 15 does not report on manufacturer recommendations or local requirements for these topics. Please provide the relevant manufacturer information for the wind turbines under consideration, and any municipal requirements on these matters.

Exhibit 19 – Noise and Vibration

10. Section 2.19(n) of the Final Scoping Statement stipulates that “[f]or wind turbines, technical specifications and cut sheets (subject to confidential protection) with sound power level information from manufacturers will be included in the Application for all turbine models considered for the project where such information is available. Sound power information from the turbines’ manufacturers will be reported as associated with wind speed magnitudes, angular speed of the rotor, and rated power for the basic configuration, and for any noise reduction operations for the turbine model used in the Application, if available.” However, technical specifications and

cut sheets for the GE 5.5-158 and the V162-5.6 Wind Turbines were not included in the Application. Please provide technical specifications and cut sheets for the GE 5.5-158 and the V162-5.6 Wind Turbines. This information should include any sound power level information with regards to noise reduction operations from the manufacturer.

Exhibit 20 – Cultural Resources

11. 16 NYCRR §1001.20(a)(3) requires “a Phase IB study, if required, as determined in consultation with OPRHP.” A summary survey was provided in the Application, but not the full Archeological Phase 1B Report (See p. 4 of 32). Please provide the final Archeological Phase 1B Report, as required by 16 NYCRR §1001.20(a)(3).

Exhibit 21 – Geology, Seismology, and Soils

12. 16 NYCRR §1001.21(k) requires “an identification and evaluation of reasonable mitigation measures regarding blasting impacts, including the use of alternative technologies and/or location of structures, and including a plan for securing compensation for damages that may occur due to blasting.” Alternate technologies, blasting locations and plans for compensating individuals for damages were not described in Exhibit 21. Please elaborate on alternate technologies and why they can or cannot be applied, provide a more concise description of the blasting locations and specifically discuss how the Applicant intends to compensate individuals or entities for any damages that may be caused as a result.

Exhibit 23 – Water Resources and Aquatic Ecology

13. 16 NYCRR §1001.23(a)(2) requires “[a] map based on publicly available information showing all areas within the study area delineating all groundwater aquifers and groundwater recharge areas, and identifying groundwater flow direction, groundwater quality, and the location, depth, yield and use of all public and private groundwater wells or other points of extraction of groundwater, and including delineation of well head and aquifer protection zones.” Additionally, Section 2.23(a)(2) of the Final Scoping Statement stipulates that a parcel-based map will be used to depict the locations of private and New York State Department of Environmental Conservation water supply wells. However, confidential Figure 23-1 uses a topographic map and groundwater flow direction was not depicted. Please submit a revised figure that indicates groundwater flow direction and depicts the locations of public and private water supply wells using a parcel-based map.
14. 16 NYCRR §1001.23(b)(3) requires “[a]n identification of any downstream surface water drinking-water supply intakes within one mile, or if none within one mile, an identification of the nearest one (giving location of the intakes by longitude and latitude) that could potentially be affected by the facility or interconnections,

including characterization of the type, nature, and extent of service provided from the identified source.” According to Exhibit 23(b)(3) of the Application, New York State Department of Health responded to a request for data on public surface water drinking supply intakes within one mile of the Facility Site stating that no water supply intakes existed within the specified area. Please identify the nearest downstream drinking-water supply intake to the Facility Site and if the Applicant is of the position that no surface water intakes beyond one mile of the Facility Site would be adversely impacted, that should be specifically stated.

Exhibit 24 – Visual Impacts

15. 16 NYCRR §1001.24(a)(10) requires “proposed mitigation and mitigation alternatives based on an assessment of mitigation strategies, including screening (landscaping), architectural design, visual offsets, relocation or rearranging facility components, reduction of facility component profiles, alternative technologies, facility color and design, lighting options for work areas and safety requirements, and lighting options for stack lighting if required by the Federal Aviation Administration.” Furthermore, 16 NYCRR §1001.24(b)(6) requires “[a]dditional revised simulations illustrating mitigation shall be prepared for those observation points for which mitigation is proposed in the application.” In relation to the substation, the Applicant notes on page 18 of Exhibit 24 that it would “contrast with the existing rural landscape and will be visible from some adjacent residences” and that “[s]creening in the form of perimeter plantings could be effective in reducing the visibility/visual impact of the substations.” However, no simulation was provided for any proposed planting so it is not clear what is proposed. Please clarify whether the Applicant is proposing plantings to reduce visual impacts, and if so, provide a planting plan for the mitigation planting around the substation and simulation for the proposed planting.

Exhibit 25 – Effect on Transportation

16. Section 2.25(b)(3) of the Final Scoping Statement stipulates “[t]his section of the Article 10 Application will provide a review of locations of emergency service provider stations (police, fire, ambulance, and hospitals) that serve the Facility Site, including approximate distances to turbine locations. In addition, the Article 10 Application will detail consultations that have occurred between the Applicant and local emergency service providers, including local fire departments, police, and ambulance services, Mercy Flight EMS helicopter service, and the County Department of Emergency Services.” The Application mentions the presence of several fire companies near the Facility and states that the Applicant met with Barre Fire Company, however it does not include a summary of consultations with the Mercy Flight EMS helicopter service and other emergency services. Please provide the summary of consultations with the Mercy Flight EMS helicopter service and other emergency services.

Exhibit 32 – State Laws and Regulations

17. 16 NYCRR §1001.32(b) requires “[a] list of all state procedural requirements required to be identified pursuant to subdivision (a) of this section for which the Applicant requests that the Board expressly authorize the exercise of such authority by the state agency, including a statement why such exercise would be desirable or appropriate.” It is noted on page 3 of Exhibit 32 that “the Applicant anticipates requesting that the Siting Board authorize the NYSDOT to issue the applicable oversized vehicle permits, highway work permits, and other ministerial permits associated with road work in State highways or rights-of-ways.” This statement in the Application does not make a clear request to the Siting Board. Please revise Exhibit 32 to make the intended statement regarding delegation of highway work permits to the NYSDOT.