

STATE OF NEW YORK  
OFFICE OF RENEWABLE ENERGY SITING  
COMBINED NOTICE OF AVAILABILITY OF DRAFT PERMIT CONDITIONS, PUBLIC  
COMMENT PERIOD AND PUBLIC COMMENT HEARING, AND COMMENCEMENT OF  
ISSUES DETERMINATION PROCEDURE

**Applicant:** Heritage Wind, LLC  
310 4<sup>th</sup> Street NE, Suite 300  
Charlottesville, VA 22902

**Facility Location:** Town of Barre, Orleans County, New York

**Applicant's Attorney:** James A. Muscato II  
Young / Sommer LLC  
Executive Woods  
5 Palisades Drive  
Albany, NY 12205  
(518) 438-9907

**DMM Matter No.:** 21-00026

**Facility Description:** Applicant applied to the New York State Office of Renewable Energy Siting (Office or ORES) for a permit pursuant to Executive Law § 94-c to construct and operate a 184.8 megawatt (MW) wind energy facility located in the Town of Barre, Orleans County.

Applicant filed a transfer application from a pending Public Service Law (PSL) article 10 proceeding on January 13, 2021. Because an application completeness determination was issued in the PSL article 10 proceeding, the transfer application was deemed complete upon filing.

ORES staff published draft permit conditions on March 15, 2021. The draft permit conditions may be accessed at <https://ores.ny.gov/permit-applications>, click on Project DMM Matter Number 21-00026.

**Public Comment Hearing:** A public comment hearing pursuant to 19 NYCRR part 900 to hear and receive unsworn comments from the public will be held on **May 20, 2021, at 5:00 pm. The hearing is being conducted electronically through the Webex Events platform and by telephone.**

All persons, organizations, corporations, or government agencies who may be affected by the facility are invited to attend the hearing and comment on the application and the draft permit conditions. Instruction on how to attend the hearing electronically or by telephone are provided below. Lengthy comments will not be accepted and instead should be submitted in writing. Equal weight will be given to both oral and written comments. To ensure that all interested persons have an opportunity to speak, the Administrative Law Judges (ALJs) may limit the time available for oral comments to 3 minutes per person.

Because the hearing is being conducted electronically, it is reasonably accessible to persons with a mobility impairment. Interpreter services shall be made available to deaf persons, and English language translator services shall also be made available, at no charge for either service, upon written request to ALJ Richard A. Sherman at the address below. All requests must be received no later than 4:00 pm on May 6, 2021.

**Written Public Comments:** Written comments concerning the application and the draft permit conditions must be filed with ORES by **5:00 p.m. on May 21, 2021**. Persons filing written comments are strongly encouraged to post their comments on the Department of Public Service's (DPS's) Document and Matter Management (DMM) system. To post a comment, go to <https://ores.ny.gov/permit-applications>, click on Project DMM Matter Number 21-00026, and click on "Post Comments" in the upper right-hand corner of the screen.

Written comments may also be emailed to ORES at [general@ores.ny.gov](mailto:general@ores.ny.gov) or mailed to the Office of Renewable Energy Siting, Empire State Plaza, 240 State Street, P-1 South, J Dock, Albany, NY 12242. Written comments will be considered equally with oral statements delivered at the public comment hearing, provided they are postmarked by **May 21, 2021**, or e-mailed or posted on DMM by 5:00 p.m. on that date.

**Issues Determination Procedure:** Pursuant to 19 NYCRR 900-8.3(b), a pre-adjudicatory issues determination procedure will be conducted by the assigned ALJs. The procedure will be conducted solely on papers and briefing unless the ALJs, in their sole discretion, determine that oral argument is necessary. The purpose of the issues conference is to determine party status for any person or organization that has properly filed a petition (as indicated below), and to narrow and define those issues, if any, that will require adjudication in this matter. Participation in the issues determination procedure is limited to ORES staff, applicant, staff from other involved State agencies, and those persons or organizations requesting party status.

**Filing for Party Status and Proposed Issues:** Persons seeking to participate in the issues determination procedure and any subsequent adjudicatory hearing must register on DMM and file a written petition explaining whether their request is for full party status or amicus status. For the required contents of petitions for full party status, see 19 NYCRR 900-8.4(c)(1) and (2). To determine whether an issue is substantive and significant, see 19 NYCRR 900-8.3(c)(2) and (3). For the required contents of a petition seeking amicus status, see 19 NYCRR 900-8.4(c)(1) and (3). Petitioners may also file written briefs making arguments in support of their petitions.

All petitions requesting party status and briefs in support must be E-Filed on DMM no later than **4:00 p.m. on May 18, 2021**. Instructions for registering in DMM and E-Filing documents may be found at:

<https://www3.dps.ny.gov/W/PSCWeb.nsf/All/CC256BE982C58CF785257687006F39CE?OpenDocument>.

Address all petitions to Richard A. Sherman, Administrative Law Judge, New York State Department of Environmental Conservation, Office of Hearings and Mediation Services, 1<sup>st</sup> Floor, 625 Broadway, Albany, New York, 12233-1550, telephone: (518) 402-9003, email: [richard.sherman@dec.ny.gov](mailto:richard.sherman@dec.ny.gov), and to Ashley Moreno, Administrative Law Judge, New York

State Department of Public Service, Office of Hearings and Alternative Dispute Resolution, 3 Empire State Plaza, Albany, New York, 12222, (518) 473-8123, email: [ashley.moreno@dps.ny.gov](mailto:ashley.moreno@dps.ny.gov).

At the same time petitions and briefs are E-Filed on DMM, a copy of all papers must be emailed to the ALJs at the email addresses above, and furnished to applicant Heritage Wind, LLC's attorney, James Muscato II, Young / Sommer LLC, Executive Woods, 5 Palisades Drive Albany, New York 12205, (518) 438-9907, [jmuscato@youngsommer.com](mailto:jmuscato@youngsommer.com), and to ORES at the Office of Renewable Energy Siting, Empire State Plaza, 240 State Street, P-1 South, J Dock, Albany, NY 12242, (518) 473-4590, [general@ores.ny.gov](mailto:general@ores.ny.gov). Service of petitions and briefs by email is authorized provided they are received by all of the above parties and the ALJs by the 4:00 P.M. deadline.

Any questions about filing requirements or other hearing procedures may be addressed to ALJ Richard A. Sherman by telephone at (518) 402-9003 or ALJ Ashley Moreno by telephone at (518) 473-8123. ORES's regulations may be found at <https://ores.ny.gov/regulations>.

**Statement of Compliance with Local Laws and Regulations:** Any municipality, political subdivision or an agency thereof that received notice of the filing of the application must file a statement indicating whether the proposed facility is designed to be sited, constructed and operated in compliance with applicable local laws and regulations, if any, concerning the environment, or public health and safety. The statement must be filed and served by the same deadline and in the same manner as petitions for party status. Any municipality, political subdivision or an agency thereof that proposes to adjudicate any issues related to a facility's compliance with local laws and regulations must file a petition for party status as provided for in 19 NYCRR 900-8.4(c) and include the statement of compliance with local laws and regulation.

**Applicant Statement of Issues:** No later than **4:00 p.m. on May 18, 2021**, applicant shall file and serve on ORES staff and the ALJs a statement of issues applicant intends to raise with respect to any determination of the Office, and briefing in support. Applicant shall serve the statement of issues and brief on persons filing petitions for party status within five (5) days of such filing. For the required contents of an applicant's statement of issues, see 19 NYCRR 900-8.4(b)(1).

**Responsive Briefing and Response to Comments:** No later than **4:00 p.m. on June 4, 2021**, ORES staff may file and serve a response to any petitions for party status, any statement of issues by applicant, and the statement of compliance with local laws and regulations. By the same deadline, applicant may file and serve a response to any petition for party status or statement of compliance with local laws and regulations. In addition, the applicant shall file and serve on ORES staff a response to public comments received during the public comment period, including any supplemental information.

**Document Availability:** Copies of all application materials and draft permit conditions are available for inspection from the Office's Albany office during normal business hours: Contact the Office of Renewable Energy Siting, Empire State Plaza, Swan Street Building – Core 1, Room #110-119, Albany, NY 12223, (518) 473-4590, [general@ores.ny.gov](mailto:general@ores.ny.gov). Electronic copies

are available at <https://ores.ny.gov/permit-applications>, click on Project DMM Matter Number 21-00026.

Copies of all application materials are also available at the Hoag Town Library, 134 South Main Street, Albion, NY 14411, email [hoag\\_library@yahoo.com](mailto:hoag_library@yahoo.com); Haxton Memorial Library, 3 N. Pearl Street, Oakfield, NY 14125, email [kgibs@nioga.org](mailto:kgibs@nioga.org); Holley Community Free Library, 86 Public Square, Holley, NY 14470, email [president@holleylibrary.org](mailto:president@holleylibrary.org); Lee-Whedon Memorial Library, 620 West Ave., Medina, NY 14103, email [info@medinalibrary.org](mailto:info@medinalibrary.org).

**Statutory and Regulatory Provisions:** The application is being processed and this proceeding is being conducted according to Executive Law § 94-c and 19 NYCRR part 900.

**Instructions for Attending the Public Comment Hearing:**

To join the hearing through the internet, visit [www.webex.com](http://www.webex.com) and click “Join a meeting.”

**Event Number:** 129 579 1750  
**Password:** May20-5pm

To join by phone only:

**Dial:** 1-518-549-0500  
**Access Code:** 129 579 1750

Persons wishing to comment on the application or the draft permit conditions will have the opportunity to make a statement at the public comment hearing. **Any person wishing to provide a public statement must register in advance of the hearing no later than 10:00 a.m. May 19, 2021.** Any person may listen to the hearing by phone without pre-registration.

**To register electronically:** Persons who will login to the hearing electronically must register. To register, visit <https://www.webex.com>, click on “Join a meeting,” input the event number listed above, click “Register,” and fill in the requested information. You will be asked whether you wish to make a public statement or not. After registration is complete, you will receive a confirmation by email with information about how to join the hearing.

On the appropriate date and time of the hearing, participants should visit <https://www.webex.com>, click “Join a meeting” at the top right-hand corner of the screen, and input the appropriate event number for the hearing. Participants will be asked to “select audio system.” It is recommended that participants choose to have the system “call me” or “call using computer.” The “call me” option will require participants to enter their phone numbers.

**To register by telephone:** Any person who is not able to login electronically may participate by telephone. Call-in participants who wish to make a public comment must register in advance no later than 10:00 a.m. on **May 19, 2021**, by calling 1-800-342-3330, where they should follow prompts to the appropriate hearing and provide the following information: first and last name, address, email address if any, and telephone number.

On the day and time of the hearing, use the phone access phone number, (518) 549-0500, and the appropriate access code listed above to join the hearing.

All participants will be muted upon entry into the hearing. The ALJs will call on each person who has registered to speak. The ALJs will continue the hearing until everyone wishing to speak has been heard or other reasonable arrangements have been made to include their comments in the record. The hearing will be stenographically recorded for inclusion in the record.

Richard A. Sherman  
Administrative Law Judge

Ashley Moreno  
Administrative Law Judge

March 15, 2021  
Albany, New York