



**Office of  
Renewable  
Energy Siting**

KATHY HOCHUL  
GOVERNOR

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May 9, 2022

Alex Campbell  
Hecate Energy Columbia County 1, LLC  
621 W. Randolph Street  
Chicago, IL 60661  
[acampbell@hecateenergy.com](mailto:acampbell@hecateenergy.com)

RE: Matter No. 21-02553 - NOTICE OF INCOMPLETE APPLICATION  
Executive Law §94-c Permit Application of Hecate Energy  
Columbia County 1 LLC, for the proposed Shepherd's Run Solar  
Facility (Facility or Solar Facility), located in the Town of  
Copake, Columbia County (60 MW Solar)

Dear Alex Campbell:

Based upon review of the above Permit Application submitted by Hecate Energy Columbia County 1, LLC (Applicant) on March 8, 2022, the Office of Renewable Energy Siting (the Office or ORES) has determined that the Application, as submitted, is incomplete. A list of the areas of incompleteness and description of the specific deficiencies is identified in **Attachment A** to this letter, pursuant to 19 NYCRR §900-4.1(d).

The Applicant should review the attached information and provide a supplemental response to the Office. The supplement should include both a clean and redline version of all updated exhibits, and a full set of plans submitted electronically with revisions clouded. The Permit Application shall remain incomplete until all requested information is received by the Office, and a partial submission of the requested material shall not change the incomplete status in compliance with 19 NYCRR §900-4.1(e). Failure to respond in writing to the Office's notice of incomplete application may result in the Application being deemed withdrawn without prejudice in compliance with 19 NYCRR §900-4.1(f).

ORES Matter No. 21-02553

Notice of Incomplete Application

Please note that the Applicant is required to serve a copy of its supplemental response on all entities entitled to receive a copy of the Application pursuant to 19 NYCRR §900-1.6. The Office is committed to responding as expeditiously as possible to your complete supplemental response.

cc: Service List

**ATTACHMENT A****Areas of Incompleteness and Description of Specific Deficiencies  
ORES Matter No. 21-02553 Shepherd's Run Solar Facility**

Pursuant to 19 NYCRR §900-4.1(d), this notice includes a listing of all identified areas of incompleteness and a description of specific deficiencies requiring a written response from the Applicant.

Without limitation, the additional analyses and information requested herein are necessary to make findings and determinations that the proposed Solar Facility, together with applicable Uniform Standards and Conditions (USCs), site specific conditions, and pre-construction and post-construction compliance filings, would:

- a) comply with Executive Law §94-c and applicable provisions of the Office's regulations at 19 NYCRR Part 900;
- b) comply with substantive provisions of applicable State laws and regulations;
- c) comply with substantive provisions of applicable local laws and ordinances;
- d) avoid, minimize, or mitigate, to the maximum extent practicable, potential significant adverse environmental impacts of the Facility;
- e) achieve a net conservation benefit with respect to any impacted threatened or endangered species; and
- f) contribute to New York's Climate Leadership and Community Protection Act (CLCPA) targets by providing the estimated additional megawatts (MW) of renewable energy set forth in the Application, and provide the environmental benefits of offsetting the estimated number of tons of CO<sub>2</sub> and other emissions per year set forth in the Application.

**General Requirements for Applications**

1. Please provide proof of service as described in 19 NYCRR §900-1.6(a)(4), (5), (6), (7), (c)(2) and (3).

**Exhibit 2 - Overview and Public Involvement**

1. Please update Exhibit 2 to include or incorporate by reference all communications, presentations and related information concerning the Applicant's pre-application consultation and

community engagement as required by 19 NYCRR §§ 900-1.3(a) and (b).

2. Exhibit 2, page 22 notes occurrence of multiple meetings with the "Working Group" and amendments to the facility resulting from this feedback. Following submission of the application, the Applicant posted a response to the comments of the "Working Group" (DMM Item Number 31). Please supplement the exhibit to describe in detail how the proposed facility was modified as a result of this dialogue or update Exhibit 2 to include this response as an Appendix, or alternatively, incorporate the filing at DMM Item Number 31 into Exhibit 2 by reference.

### **Exhibit 3 - Location of Facilities and Surrounding Land Use**

The information provided in Exhibit 3 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.4.

1. Exhibit 3 defines the limits of the Project Area as "those privately-owned parcels under option to lease, purchase, easement or other real property interests with the Applicant in which all Project components will be sited totaling approximately 880 acres." There are inconsistencies with this definition and mapping in Exhibits 3, 4, 5, and 12. Please revise accordingly.
2. 19 NYCRR §900-2.4(b) requires "[m]aps clearly showing the location of the facility...in relation to municipal boundaries and taxing jurisdictions." Please revise the scale of Figure 3-1 to include municipal boundaries and taxing jurisdictions.
3. 19 NYCRR §900-2.4(e) requires a summary of any consultations with owners of major facilities that may be impacted by the Facility (crossing existing utilities or otherwise). On page 5 of Exhibit 3, ROW crossings are proposed for State Route 23 and County Route 7. Please supplement Exhibit 3 with a summary and status of any consultations of proposed ROW crossings. Please also include details regarding any required crossings of existing roadway utilities along State Route 23 and County

Route 7 and provide copies of any correspondence with these operators in Exhibit 4 (19 NYCRR §900-2.5(a)).

- 4.19 NYCRR §900-2.4(s) requires "an analysis of impacts of facility construction and operation on community character, and identification of avoidance or mitigation measures that will minimize adverse impacts on community character." In the context of avoidance, minimization, and mitigation, please supplement Exhibit 3 with a detailed discussion and analysis of the facility's scale.

#### **Exhibit 5 - Design Drawings**

The information provided in Exhibit 5 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.6.

- 1.19 NYCRR §900-2.6(a) requires that "[d]rawings to be submitted... shall be prepared by or at the direction of a professional engineer, licensed and registered in New York State, whose name shall be clearly printed on the drawings." Please provide a revised plan set with the engineer's name(s) and license number(s) clearly printed on all plans.
- 2.19 NYCRR §900-2.6(f)(1)(i)(a) requires that site plans include "[a]pplicable setbacks of Table 2: Setback Requirements for Solar Facility Components and any applicable local setbacks." Please revise Exhibit 5 to include a discussion of the 100-foot buffer to property lines required by the Town of Copake Code (Section 232-16.12(E)(5)).
- 3.19 NYCRR §900-2.6(f)(1)(i)(j) requires that site plans include landscaping improvements.
  - a. The landscape plan proposes large areas of proposed seed mixes. Please revise the General Notes sheet to include an establishment and maintenance plan for the proposed seed mixes. The plan should exclude the use of chemicals/herbicides on existing vegetation which could negatively impact downstream wetland areas.
  - b. Please supplement the Exhibit 8 narrative to explain the purpose or design intent of Seed Mix A.

- c. Seed Mix A is proposed within NYS-regulated Wetland Adjacent Areas. Please revise the plan to indicate native-only seed within the 100-foot adjacent areas.
4. 19 NYCRR §900-2.6(f)(1)(i)(j) requires that site plans include fencing. The Grading and Erosion Control Plans indicate silt fence along the wetland boundaries and downhill of ground disturbances and earth moving activities. Acknowledging the final design plans must comply with the SPDES General Permit for Stormwater Discharges from Construction Activity, please supplement Exhibit 5 to include discussion prepared by a licensed professional engineer regarding the proposed silt fence position and alternative locations. Please also include a description of how the wetland(s) will be protected from erosion and sediment from the adjacent disturbed slopes.
5. 19 NYCRR §900-2.6(f)(2)(i) requires "[t]ypical elevation drawings indicating the length, width, height, material..." Please provide elevation drawings and dimensions for the substation control house(s).
6. 19 NYCRR §900-2.6(f)(2)(iii) requires "[a] description of the cable installation process." It is noted in Exhibit 16 that 4 trenchers will be on-site; however, no details of the machinery/installation are provided. Please supplement Exhibit 5 with a description of the cable installation process (i.e. wheel saw trencher to be utilized for non-agricultural land installations, etc.).
7. The Applicant requests relief from §232-16.12(H)(2) of the Town of Copake Code to the extent that it conflicts with AGM Guidelines.
- a. The FG-09 grading area (Sheet C-107) cut and fill results in steeper slopes outside the fenced facility. Please provide a description of the alternatives evaluated to conserve or restore this area for agricultural purposes upon decommissioning.
  - b. The application has not included all proposed earthmoving activities in Exhibits 5 or 10. Please

provide the proposed grading for all elements (i.e. roads and swales).

8. For consistency across application exhibits, please revise the site plans to include the following General Notes:
  - a. "Pursuant to 19 NYCRR §900-3(a)(2), if previously unknown oil and/or natural gas wells are confirmed within the Facility Site during construction of the Facility, the contractor shall immediately cease construction activities in the immediate area surrounding the well and shall notify and consult with the Office and NYSDEC Division of Mineral Resources, Regional Minerals Manager, (Central Office, Albany, NY) to determine what, if any, mitigation measures must be implemented."
  - b. "Blasting is prohibited."
  - c. Please also include reference to applicable NYSAGM "Guidelines for Solar Energy Projects - Construction Mitigation for Agricultural Lands" dated 10/18/2019 in Grading and Erosions Control note #7 as it relates to temporary stockpiling.

#### **Exhibit 6 - Public Health, Safety and Security**

1. 19 NYCRR §900-2.7(a)(5) requires, among other items, mapping of existing known hazards, contaminated sites, and other local risk factors.
  - a. Figure 6-1 indicates three (3) "EPA listed" sites inside the Project area. Please update Figure 6-1 to include any applicable regulatory or other considerations regarding the development of the sites.
  - b. The Exhibit 6 narrative indicates the Project area contains about 23.5 acres that could be inundated by a 100-year flood but states that the 1985 FEMA floodplain maps are advisory in nature. However, the Town of Copake has adopted the 1985 FEMA maps into Chapter 135. It is unclear whether facility components have been sited in areas subject to floodplain regulations. Please supplement Exhibits 5 and 6 with mapping which identifies the facility components in relation to the adopted floodplain and an analysis of applicable mitigation measures and/or regulatory requirements.

Please provide additional discussion regarding the referenced FEMA update and confirm if it is applicable to this locale.

2. 19 NYCRR §900-2.7 requires "[a] cyber security program for the protection of digital computer and communications systems and networks...providing for periodic validation of compliance with the applicable standard by an independent auditor." Update Appendix 6-1 to provide:
  - a. The time span of periodic reviews by an independent auditor; and
  - b. A discussion of the entity (Facility Owner or other) who will be responsible for tracking updates to selected cybersecurity standards and upgrades to the facility as necessary.

#### **Exhibit 7 - Noise and Vibration**

The information provided in Exhibit 7 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.8.

1. 19 NYCRR §900-2.8(b)(2)(i), §900-2.8(b)(2)(iv), 19 NYCRR §900-2.8(p)(3) and 19 NYCRR §900-2.8(p)(5)(ii) are incomplete with respect to impacts from the HVAC Equipment associated with the control house and the Solar Panel tracking systems and "[s]ite plan and elevation details of substations, as related to the location of all relevant noise sources."
  - a. Please supplement Exhibit 7 with supporting information (manufacturer sound data and dimensions) for any HVAC equipment associated with the control house and the Solar Panel tracking systems (IDEEMATEC's Horizon PV tracker) and reevaluate based on the design goals for the solar facility.
  - b. Please provide a plan and elevation noting the location of the HVAC system.
2. 19 NYCRR §900-2.8(c)(2) requires "[f]or the cumulative noise analysis, the evaluation shall include noise from any solar facility and substation existing and proposed by the time of filing..." Please supplement Exhibit 7 to include the existing



Craryville substation in the cumulative analysis and resubmit.

3. 19 NYCRR §900-2.8(j)(1) requires that "[t]he model shall use the ANSI/ASA S12.62-2012/ISO 9613-2:1996 (MOD)...or the ISO9613-2:1996 propagation standard...from activities at any proposed batch plant area/laydown area." Noise modeling for a batch plant was not performed. Please assess the impact of construction noise from a batch plant, if any.
4. 19 NYCRR §900-2.8(j)(2) requires that "[t]he model shall include, at a minimum, all noise sources and construction sites that may operate simultaneously to meet the proposed construction schedule for the most critical timeframes of each phase." The applicant presents five (5) major construction phases: site preparation and grading, trenching and road construction, HDD, equipment installation, and commissioning but the sound modeling does not include modeling for activities that may occur simultaneously (such as grading and trenching). Please clarify if any of the construction phases will overlap, and if so, provide an updated cumulative noise analysis to include any simultaneous activities.
5. 19 NYCRR §900-2.8(k)(4) requires "[f]ull-size hard copy maps (22" x 34") in 1:12,000 scale." Please supplement Exhibit 7 with full size hard copy maps at the correct scale.

#### **Exhibit 8 - Visual Impacts**

The information provided in Exhibit 8 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.9.

1. 19 NYCRR §900-2.9(b)(1) requires that "[v]iewshed maps depicting areas of facility visibility...shall be prepared and presented on a 1:24,000 scale." Please supplement Exhibit 8 with viewshed maps at the required scale.
2. Please revise Table 4 and Table 8-4 "Inventory of Visual Resources within the Two Mile VSA" to include the ten (10) NRHP E/L properties identified in CRIS.

- 3.19 NYCRR §900-2.9(b)(4)(v) requires an "[a]ssessment of visual impacts pursuant to the requirements of adopted local laws or ordinances." Please supplement Exhibit 8 with this discussion.
- 4.19 NYCRR §900-2.9(c)(1) requires that "[p]hotographic simulations of the facility shall be prepared from the representative viewpoints to demonstrate the post-construction appearance of the facility. Where vegetation screening is relied on for facility mitigation, leaf-off and leaf-on simulation shall be provided."
  - a. The Applicant provided photo simulations representing the appearance after five (5) years of operation. Please provide a simulation at each location indicating the plant sizes at less than two (2) years "post-construction".
  - b. Please supplement Exhibit 8 with photo simulations from viewpoints consistent with those required through consultation with SHPO or cross reference Exhibit 9, as appropriate.
  - c. Please revise VP16 to include the proposed vegetative screening as indicated in the landscape plans.
  - d. Please revise or provide additional simulations for VP54 and VP55 to provide leaf-off conditions for the existing foreground vegetation.
- 5.19 NYCRR §900-2.9(c)(3) requires that "[e]ach set of existing and simulated views of the facility shall be compared and rated and the results of the VIA shall be summarized." Please update Table 10 "Visual Impact Rating Results" to compare the contrast rating of pre- and post- mitigation values and summarize the effects of the proposed mitigation measures.
- 6.19 NYCRR §900-2.9(d)(9) requires a lighting plan. Please supplement Exhibit 8 to include the following items:
  - a. Plan and profile figures demonstrating the lighting area needs and proposed lighting arrangement and illumination levels that provide safe working conditions at the collection substation site and any exterior equipment

storage yards. The plan shall demonstrate that it will "avoid off-site lighting effects."

- b. Details and cut sheets of the proposed lighting fixtures consistent with §232-15(B) of the Town of Copake Local Law.

### **Exhibit 9 - Cultural Resources**

1. 19 NYCRR §900-2.10(a)(5) requires "[a]n Unanticipated Discovery Plan that shall identify the actions to be taken in the unexpected event that resources of cultural, historical, or archaeological importance are encountered during the excavation process..." Please supplement Exhibit 9 with greater details regarding actions to be taken in the event resources are encountered. Please also include contact details for SHPO, THPO, DPS, and ORES staff in the event of an unanticipated discovery.
  - a. Please reference the Stockbridge-Munsee Inadvertent Discovery Policy or incorporate the information on pages 9-10.
  - b. Please update Exhibit 9 to cite the current version of the SHPO Human Remains policy.
2. 19 NYCRR §900-2.10(b) requires "[a] study of the impacts on historic resources within the Project impact area, including...consultation with local historic preservation groups and federal/state-recognized Indian Nations to identify sites or structures listed or eligible for listing in the State or National Register of Historic Places within the PIA..."
  - a. Please revise Exhibits 8 and 9 for consistency with SHPO's eligibility determination.
  - b. Please supplement Exhibit 9 to reference SHPO's May 3, 2022, Adverse Impact Determination, and discuss the required mitigation. The Applicant's April 19, 2022 submission and SHPO's May 3, 2022 response should also be provided in Appendix 9-2.

**Exhibit 10 - Geology, Seismology and Soils**

The information provided in Exhibit 14 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.11.

1. 19 NYCRR §900-2.11(a)(1) requires "[a] map delineating existing slopes...on and within the drainage area..." The color-shaded slopes in Figure 10-1 only covers the Facility footprint. Please revise this Figure to include the entire drainage area potentially affected by the Facility site and interconnections.
2. 19 NYCRR §900-2.11(a)(2) requires "[a] proposed site plan showing existing and proposed contours at two-foot intervals."
  - a. Please revise the C-series plans (Grading and Erosion Control Plans) to display existing contours at the required intervals.
  - b. The plans indicate proposed access roads and road-side swales within arrays indicated by symbology only. Please revise the C-series plans (Grading and Erosion Control Plans) to display the proposed applicable topography.
  - c. The plans note individual cut/fill calculations, but the Exhibit does not summarize gross versus net cut/fill amount for the full Project area or indicate spoil stockpile areas. Please supplement Exhibit 10 with a discussion regarding how and where excess soils (if any) and topsoil stockpiles will be moved.

**Exhibit 12 - NYS Threatened or Endangered Species**

1. 19 NYCRR §900-2.13(f) requires "[a] facility that would adversely impact and NYS threatened or endangered species, or their habitat" to provide a "copy of the Net Conservation Benefit Plan provided in compliance with section 900-6.4(o)." The mitigation site proposed appears to consist of unsuitable habitat (narrow portion surrounded by fencing and facility construction, partially forested, partially sloped, etc.). Please supplement Exhibit 12 with alternative areas that can be considered for mitigation to provide a net conservation benefit to the species impacted.

**Exhibit 13 - Water Resources and Aquatic Ecology**

1. The Applicant requests relief from §232-11(D)(2) of the Town of Copake Town Code regarding development within 100 feet of a stream or wetland. Please supplement Exhibit 13 with an introduction summarizing the delineation report performed by the Permittee and the Office's jurisdictional determination issued in compliance with 900-1.3(e), together with a summary table listing the total acreages of NYS-regulated wetlands, wetland adjacent areas, stream adjacent areas, and the linear feet of NYS-regulated streams.

**Exhibit 14 - Wetlands**

The information provided in Exhibit 14 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.16 and §900-1.3(e).

1. While Exhibit 13 provides figures of the wetlands and adjacent areas with proposed facility features, the shapefiles provided as part of 19 NYCRR §900-1.3(e) have missing and inconsistent information. Please provide corrected GIS shapefiles to show facility impacts to NYS- jurisdictional wetlands and 100-foot adjacent areas, including "vegetation maintenance management" areas with the Project Limits of Disturbance, depicted and categorized using "Feature/Activity Type" categories listed in the left column found in Table 1 in §900-2.15.
2. 19 NYCRR §900-2.15(e)-(f) requires "[a] demonstration of avoidance of impacts to such wetlands and their one hundred (100)-foot adjacent areas..." and that an "impact minimization summary shall address the following criteria for each proposed impact area..." Additionally, the Applicant requests relief from §232-11(D)(2) of the Town of Copake Town Code regarding development within 100 feet of a stream or wetland.
  - a. While Exhibit 13 includes maps with facility components, the scale of 1"=200' is not adequate to review impacts. Please provide maps with a scale of 1"=50', or greater, for each proposed wetland Adjacent Area.

- b. Please supplement Exhibit 14 with a narrative regarding specific measures taken to minimize unavoidable impacts for each specific impact location to NYS regulated Adjacent Areas.

### **Exhibit 15 - Agricultural Resources**

The information provided in Exhibit 15 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.16.

1. 19 NYCRR §900-2.16(b)(2) requires maps showing all agricultural production acreage proposed to remain in agricultural use. Please provide the required map.
2. 19 NYCRR §900-2.16(b)(4) requires “[l]ocations of known or suspected sub-surface drainage systems...surface drainages, irrigation lines, or other unique agricultural facilities.” Please revise Figure 15-7 to include:
  - a. Identification of surface drainage features as they relate to agricultural resources and soils (i.e., natural drainage features including but not limited to: the Taghkanic Creek and its tributaries, wetlands, agricultural grass waterways, ditches, etc.); and
  - b. The locations of existing drain tile systems based on consultations with participating landowners, the Columbia County Soil & Water Conservation District, and the local USDA Natural Resources Conservation Service (NRCS).
3. 19 NYCRR 900-2.16(c) requires “[a]n Agricultural Plan, consistent with the New York State Department of Agriculture and Markets Guidelines.”
  - a. Please identify areas where topsoil stripping is impractical and assess the feasibility of adhering to trenching methods (including any proposed topsoil stripping), as prescribed by the NYSDAM Guidelines.
  - b. Please supplement Exhibit 15 with a standard trenching plan showing details of the proposed method (the typical plan should include required

- c. workspace, dimensions of the trench width and depth, backfill/bedding proposals and stockpiling details).
- 4.19 NYCRR §900-2.16(d)(1)-(2) requires “[a] remediation plan to address inadvertent damages to surface or sub-surface drainage.” Please supplement Exhibit 15 to address:
- a. The efforts made to ensure surface and subsurface drainage features are properly identified and marked for avoidance prior to construction (see related deficiency at §900-2.16(b)(4));
  - b. The protocols for identifying and marking inadvertently damaged drainage features to be repaired during decommissioning (i.e., use of GPS to record coordinates, marking damaged features on as-builts, etc.); and
  - c. Page 17 of Exhibit 15 states the “[p]roject will be constructed and operated in accordance with the NYSDAM Guidelines...which specify practices in relation to the maintenance of drainage patterns and features.” Please revise the Drainage Remediation Plan to incorporate specific NYSDAM Guidelines practices relevant to surface and subsurface drainage, that the Applicant proposes to adhere to, to the maximum extent practicable.
- 5.19 NYCRR §900-2.16(e) requires “[a]ny agricultural co-utilization plan for the lifespan of the facility shall demonstrate that the proposed agricultural co-utilization will be feasible.” The Application includes potential agricultural co-utilization options; however, the co-utilization plan, as proposed, is incomplete. Please demonstrate that any proposed agricultural co-utilization will be feasible and submit an updated plan.

**Exhibit 16 - Effect on Transportation**

- 1.19 NYCRR §900-2.17(a)(1) requires a conceptual site plan showing “[h]orizontal and vertical geometry...and sight distances...” It appears Driveway 1 will need clearing to achieve the required site distances. It is unclear whether Driveway 3 will have adequate sight distance after clearing. Please clarify the foregoing and supplement Exhibit 16 with a description of the traffic control mitigation measures that

may be required for the construction, operation, and decommissioning of the Facility.

2. 19 NYCRR §900-2.17(f) requires the application to include a statement “[i]f any construction or alteration is proposed that requires a Notice of Proposed Construction to be submitted to the administrator of the FAA...” Please supplement the Application with a copy or screen-shot of the results of the FAA Notice Criteria Tool related to specific details of the facility.

### **Exhibit 18 - Socioeconomic Effects**

1. 19 NYCRR §900-2.19(d) requires “[a]n estimate of incremental school district operating and infrastructure costs...to be made after consultation with the affected school districts.” Please supplement Exhibit 18 with proof of consultation with the Taconic Hills Central School District regarding this estimate.
2. 19 NYCRR §900-2.19(e) requires “[a]n estimate of incremental municipal, public authority, or utility operating and infrastructure costs that will be incurred for police, fire, emergency, water, sewer, solid waste disposal, highway maintenance and other municipal, public authority, or utility services during the construction and operation the facility...” Please supplement Exhibit 18 with proof of consultation with local authorities regarding this estimate.
3. 19 NYCRR §900-2.19(f) requires “[a]n identification of all jurisdictions...” Application part 18(f) states “[t]he Project Footprint is within four taxing jurisdictions,” but only lists three (3) - Columbia County, Town of Copake, and Taconic Hills CSD. Please correct this inconsistency.
4. 19 NYCRR §900-2.19(g)&(k) requires a description and statement regarding the host community benefits. Please supplement Exhibit 18 with updated information, if any, concerning these requirements.



**Exhibit 19 - Environmental Justice**

1. 19 NYCRR §900-2.20(a)(1) requires "[t]he impact study area for purposes of EJ analysis shall be: (1) At a minimum, be within a one-half (0.5)-mile radius around the proposed facility..." Please revise Exhibit 19 to reflect the one-half (0.5)-mile impact study area from where facility components will be placed in the southern area of the facility and provide an updated environmental justice analysis.
2. 19 NYCRR §900-2.20(a) requires an evaluation consistent with the most up to date statistical thresholds for PEJA. Please revise the evaluations and analyses using updated data which is publicly available on DECinfo Locator or the NYS GIS Clearinghouse.

**Exhibit 22 - Electric and Magnetic Fields**

1. 19 NYCRR §900-2.23(c)(1) requires "[a] set of aerial photos/drawings enhanced by showing the exact location of each...identified ROW segment." Please supplement Exhibit 22 with updated aerial photos/drawings in Appendix 22-1 that include the proposed ROW boundaries for the 115kV transmission interconnection. Please also explain how the ROW boundaries are defined.
2. 19 NYCRR §900-2.23(c)(3) requires "[a] set of aerial photos/drawings enhanced by showing the exact location of each... nearest residence or occupied non-residential building in each identified ROW segment with a stated measurement of the distance between the edge of ROW and the nearest edge of the residence or building." Please supplement Exhibit 22 with updated aerial photos/drawings in Appendix 22-1 that include the nearest residence or occupied non-residential building with a stated measurement of the distance between the ROW and the nearest residence or building for the 115kV transmission interconnection.
3. 19 NYCRR §900-2.23(d) requires "[a]n EMF Study with calculation tables and field strength graphs for each identified ROW segment cross-section, as follows:...

calculation tables and field strength graphs calculated at one (1) meter above ground level with five (5) foot measurement intervals depicting the width of the entire ROW and out to five-hundred (500) feet from the edge of the ROW on both sides." For the 115kV transmission interconnection, please supplement Exhibit 22 with additional calculation table data for electric and magnetic field results, using five (5) foot measurement intervals depicting the width of the ROW and out to five-hundred (500) feet from the edge of the ROW on both sides. Additionally, please provide field strength graphs for electric and magnetic field study results.

### **Exhibit 23 - Site Restoration and Decommissioning**

1. For purposes of determining the net decommissioning and site restoration estimate, 19 NYCRR §900-2.24(c) requires that "projected salvage value includes "reference to the salvage value data source..." Please supplement Exhibit 23 to include the specific on-line recycling sources related to the steel and copper quotes, and provide all specific sources related to the listed salvage of silicon and glass estimates. Please provide greater detail or discussion associated with labor and other costs for removing the extracted materials from the panels, and costs associated with disposal of remaining materials, and adjust all values including the gross and net decommissioning cost as needed.

### **Exhibit 24 - Local Laws and Ordinances**

The information provided in Exhibit 24 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.25.

1. 19 NYCRR §900-2.25(a) requires that "[c]opies of zoning, flood plain and similar maps, tables and/or documents shall be included in the exhibit when such are referenced in such local substantive requirements." Please supplement Exhibit 24 with the maps and provisions for Chapter 135. Please also discuss the applicability of §§135-11 and 135-12.

2.19 NYCRR §900-2.25(c) requires “[a] list of all local substantive requirements identified pursuant to subdivision (a) or (b) of this section for which the applicant requests that the Office elect to not apply to the facility...For each local substantive requirement identified by the applicant... a statement of justification shall show with facts and analysis the degree of burden caused by the requirement, why the burden should not reasonably be borne by the applicant, that the request cannot reasonably be obviated by design changes to the facility, that the request is the minimum necessary.”

- a. Please supplement Exhibit 24 with an additional analysis (including issue-specific information, maps, figures and/or tables) substantiating the burden(s) imposed by each specific provision of local law or ordinance from which relief is sought, including potential significant adverse environmental impacts to other resources or areas or cross reference other applicable Exhibits.
- b. Comments have been provided in Exhibits 3, 5, 10, 12, 13, 14, and 15 above. This information is required for the Office to review the requested relief noted Table 24-1. Accordingly, please incorporate any pertinent information or results from these Exhibit supplements into Table 24-1.
- c. To the extent practicable, the Office respectfully requests a map of the 880 Acre Project Area at an appropriate and legible scale showing the Facility components and any applicable constraints.
- d. The Applicant requests relief from §232-11(E) (12) (d) and (e) of the Town of Copake Town Code. The Applicant states that it has not received the requested guidance from the Town of Copake. Please incorporate into Table 24-1, with reference to the documentation, the requests made for clarification on this provision.
- e. The Applicant requests relief from §232-11(I) (2) of the Town of Copake Town Code which conditions moving, filling or leveling of topsoil, sand, stone and gravel for property owners. Please clarify how these provisions (a-d) would apply to the proposed Facility.
- f. The Applicant requests relief from §232-16.12(F) (2) related to the prohibition of Tier 4 solar energy systems within areas on soils classified as prime

farmland. Please supplement Exhibit 15 with details regarding how the NYSDAM Guidelines will be applied to all Project areas subject to ground disturbance within agricultural lands during construction, post-construction restoration, monitoring and remediation, and decommissioning.