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14-F-0490 - Cassadaga Wind - 12-3-19

NEW YORK STATE BOARD ON  
ELECTRIC SITING AND THE ENVIRONMENT

CASE 14-F-0490 APPLICATION OF CASSADAGA WIND LLC FOR A  
CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED  
PURSUANT TO ARTICLE 10 TO CONSTRUCT A WIND ENERGY PROJECT

DATE: December 3, 2019, 10:00 a.m.  
LOCATION: Three Empire State Plaza  
Video conference room C, 4th Floor  
Albany, New York

Lou Alexander, alternate of Basil Seggos, Department  
of Environmental Conservation

DR. ELIZABETH LEWIS-MICHL, alternate of Dr. Howard  
Zucker, Department of Health of New York.

VINCENT RAVASCHIERE, alternate of Eric Gertler,  
Empire State Development Corporation

JOHN WILLIAMS, alternate of Richard Kauffman, New  
York State Energy Research and Development Authority

A.L.J. ASHLEY MORENO, Chief Administrative Law Judge PSC  
A.L.J. JAMES MCCLYMONDS, DEC

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2 CHAIRMAN RHODES: Good morning. I  
3 would like to call this meeting of the Board on  
4 Electric Generation Siting and the Environment to  
5 order.

6 Before moving to the agenda I would  
7 like to introduce the alternates representing the  
8 permanent members of the Board.

9 To my far right Lou Alexander,  
10 alternate of Basil Seggos, Department of  
11 Environmental Conservation

12 DR. ELIZABETH LEWIS-MICHL, alternate  
13 of Dr. Howard Zucker, Department of Health of New  
14 York.

15 VINCENT RAVASCHIERE, alternate of Eric  
16 Gertler, Empire State Development Corporation

17 JOHN WILLIAMS, alternate of Richard  
18 Kauffman, New York State Energy Research and  
19 Development Authority

20 Secretary Phillips, are there any  
21 changes to the agenda

22 SECRETARY PHILLIPS: No changes to  
23 the agenda.

24 CHAIRMAN RHODES: Thank you. With  
25 that we'll get -- get to business. Our agenda today

1                   14-F-0490 - Cassadaga Wind - 12-3-19  
2 consists of Case 14-F-0490, application of Cassadaga  
3 Wind, L.L.C. for a Certificate of Environmental  
4 Compatibility and Public Need, pursuant to Article  
5 10, to construct a wind energy project, presented by  
6 Ashley Moreno, Chief Administrative Law Judge,  
7 Department of Public Service. James McClymonds,  
8 Chief Administrative Law Judge, Department of  
9 Environmental Conservation, is also available to  
10 answer questions. Judge Moreno, please begin.

11                   A.L.J. MORENO: Thank you. Good  
12 morning, Chairman Rhodes and Siting Board members.

13                   As you mentioned, I'm Ashley Moreno.  
14 I'm presenting today on behalf of my colleague, Dakin  
15 Lecakes, who is presiding over another Article 10  
16 matter, at this moment. And, as you mentioned, with  
17 me is James McClymonds, who presided with Judge  
18 Lecakes and is also available for questions.

19                   On January 17th, 2018, the Siting  
20 Board adopted a recommended decision of the hearing  
21 examiners, as modified and granted to Cassadaga Wind,  
22 L.L.C, the first certificate under the new Public  
23 Service Law Article 10. The Siting Board certificate  
24 incorporated a number of conditions applicable to the  
25 construction, operation and potential decommissioning

1                   14-F-0490 - Cassadaga Wind - 12-3-19  
2 of the Cassadaga Wind project.

3                   Since the Siting Board's order, the  
4 certificate holder has been working to finalize its  
5 construction plans and has submitted several  
6 compliance filings. During the pre-construction  
7 process, Cassadaga Wind submitted requests, to amend  
8 some of the certificate conditions. We are here  
9 today to consider two such amendment requests made in  
10 petitions filed on August 21st, 2019 and on September  
11 4th, 2019. The August 21st petition, requests  
12 approval for the relocation of the inner-connection  
13 point from which electricity produced by the wind  
14 project, would be delivered into the electric grid,  
15 at facilities owned by National Mohawk Power  
16 Corporation, doing business as National Grid.

17                   The September 4th petition, requests  
18 approval for the relocation of four segments of  
19 access roads, two portions of a buried collection  
20 line and a segment of Cassadaga Wind's transmission  
21 line. Cassadaga Wind explained that the relocations  
22 were necessary to reduce wetland impacts, to reduce  
23 grading impacts, reduce the length of collection line  
24 and increase spacing between existing gas wells and  
25 the transmission line.

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2 On October 7th, 2019, the Secretary  
3 informed Cassadaga Wind, that because the amendment  
4 request involved moving some project components more  
5 than 500 feet from their certified location, the  
6 changes were deemed to be revisions under the Board's  
7 regulations. As revisions, the petitions were  
8 subject to the hearing requirements for applications.

9 On October 8th, 2019, the Secretary  
10 issued a notice for an October 30th procedural and  
11 issues conference and announced the potential for an  
12 evidentiary hearing, if the Judges determined, based  
13 on issues identified at the conference, that the  
14 hearing should proceed.

15 On October 30th, the Judges held a  
16 conference with the parties, at which the -- only the  
17 Concerned Citizens for the Cassadaga Wind Project,  
18 raised issues for hearing. The Judges opened the  
19 hearing and took testimony, allowed for cross  
20 examination and asked questions of their own, to  
21 gather more information. After the hearing, the  
22 Judges left the hearing record open, to allow for  
23 Concerned Citizens and the parties to review  
24 information provided at the hearing

25 With regard to the relocation of the

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2 inter-connection point, at the hearing, National Grid  
3 had explained that after reviewing the Siting Board's  
4 January 2018 Order and working with Cassadaga Wind,  
5 that Niagara Mohawk determined that a relocation of  
6 the inter-connection point was necessary.

7 In addition, the statutory parties  
8 noted, on the record, that they had reviewed the  
9 petitions and did not find any issues in need of  
10 adjudication, although D.P.S. and D.E.C. did raise  
11 some collateral issues, that the parties were able to  
12 resolve on their own. Those resolutions have also  
13 been incorporated into the Judges' recommended  
14 decision.

15 Concerned Citizens had raised some  
16 issues about the potential impacts on wetlands and  
17 proposed mitigation about the potential for noise  
18 from the inter-connection move and from construction  
19 equipment for other relocated project components,  
20 about the process, followed by the developer with the  
21 State Historic Preservation Office and general  
22 concern with the certificate revision process, that  
23 allows for revisions to be sought individually,  
24 rather than requiring all revisions to be sought as  
25 one comprehensive filing. However, on November 13th,

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2 Concerned Citizens informed the Judges that it was  
3 withdrawing the noise concern that the Judges had  
4 left open. That was the one issue remaining.

5 The Judges determined that no further  
6 process was necessary and produced a recommended  
7 decision. The Secretary issued that recommended  
8 decision on November 26th, noting that she had  
9 determined that it could be presented directly to the  
10 Board, without requiring exceptions and issued a  
11 notice of today's hearing -- meeting. I apologize.

12 Having reviewed the record, the Judges  
13 recommend that the Siting Board find that the  
14 relocations are necessary and desirable and that the  
15 impacts have been minimized to the maximum extent  
16 practicable, that the project modifications will  
17 comply with the applicable state fresh water wetlands  
18 protection laws and that the issues raised by  
19 Concerned Citizens, have either been adequately  
20 addressed or not under -- in consideration in the  
21 limited scope of the review of these petitions.

22 So, today you have before you, a draft  
23 Order that would adopt the examiners recommended  
24 decision to grant those two petitions. This  
25 concludes my presentation and we are available for

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2 any questions you might have.

3 CHAIRMAN RHODES: Thank you. I -- I'm  
4 convinced that these are -- these are good revisions  
5 that make sense for the project; in fact, are  
6 necessary and beneficial and that do a good deal to  
7 even further reduce impact.

8 So, on -- on the substance, I'm in  
9 favor of this item and the process, as well. I think  
10 this has been good process, properly submitted,  
11 opened up for comments, effectively addressing the  
12 concerns that were raised, you know, and generally  
13 fully meeting my own standards and the standards I  
14 believe in the regulations of -- of good order.

15 So, I'm going to support this item.  
16 Thank you very much. Now, I turn to my colleagues,  
17 are there any questions or comments from my fellow  
18 Board members?

19 MR. ALEXANDER: I just have one  
20 question. Relative to the revisions to the  
21 certification conditions that are part of the  
22 attachment, I just wanted to ask, with respect to the  
23 revision of Clause 131, it's my understanding that  
24 we're applying appropriate construction work hours to  
25 the Town of Stockton facilities, as well?

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2 A.L.J. MORENO: Yes.

3 A.L.J. MCCLYMONDS: That's correct.

4 D.P.S. Staff had proposed all of these revisions.  
5 Most of them related to the -- to the -- the actual  
6 modification petition that was before -- that's  
7 before the Siting Board now. This one, Clause 131,  
8 however, was to correct an oversight in the original  
9 certificate.

10 There had -- the hours -- the working  
11 hours provided for by the Town of Stockton's local  
12 law, had not been included in the original Order and  
13 so, D.P.S. Staff recommended taking this opportunity  
14 to correct the certificate and include those hours.

15 MR. ALEXANDER: All right. Thank you.

16 A.L.J. MCCLYMONDS: Uh-huh.

17 DR. LEWIS-MICHL: I have no questions.

18 CHAIRMAN RHODES: Vince or John, do  
19 you have any questions, comments?

20 A.L.J. MORENO: Oh, they -- they may  
21 be muted.

22 CHAIRMAN RHODES: Are you on mute?

23 MR. ROSENTHAL: Just -- now, I could  
24 hear that.

25 CHAIRMAN RHODES: You could hear that?

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2 MR. ROSENTHAL: No. Just put thumbs  
3 down.

4 CHAIRMAN RHODES: We need them to be  
5 able to speak though.

6 MR. ROSENTHAL: I know.

7 SECRETARY PHILLIPS: Are you able to  
8 unmute in New York City?

9 A.L.J. MORENO: Is it by the phone or  
10 is it by the remote.

11 SECRETARY PHILLIPS: We -- we cannot  
12 hear you.

13 MR. ROSENTHAL: There's somebody  
14 there. I just heard a click. Try now.

15 IT STAFF: Now, you were -- are you  
16 doing the unmute button? Can -- can you speak? Can  
17 -- can you hear us? Okay. Can -- but can you talk,  
18 so we can hear you?

19 CHAIRMAN RHODES: They're speaking but  
20 we can't hear.

21 THE REPORTER: Would you like me to go  
22 off the record?

23 CHAIRMAN RHODES: Yes, please.

24 (Off the record)

25 THE REPORTER: On the record.

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2 CHAIRMAN RHODES: Could we raise the  
3 volume, though or how do you raise the volume? Can  
4 you speak louder? Can you speak again?

5 MR. WILLIAMS: Yes, can you hear us  
6 now.

7 CHAIRMAN RHODES: Thank you. Back on  
8 the record. John or Vince, do you have any comments  
9 or questions?

10 MR. WILLIAMS: I have no questions.

11 MR. RAVASCHIERE: And, I have no  
12 questions.

13 CHAIRMAN RHODES: Thank you very much.  
14 We'll now proceed to vote on the recommendation. My  
15 own vote, is in favor of adopting the examiner's  
16 recommended decision, thereby approving the requested  
17 revisions to Cassadaga's certificate, as described.  
18 Mr. Alexander, how do you vote?

19 MR. ALEXANDER: I vote in favor.

20 CHAIRMAN RHODES: Dr. Lewis-Michl, how  
21 do you vote?

22 DR. LEWIS-MICHL: In favor.

23 CHAIRMAN RHODES: Mr. Ravaschiere, how  
24 do you vote?

25 MR. RAVASCHIERE: In favor.

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CHAIRMAN RHODES: Mr. Williams, how do  
you vote?

MR. WILLIAMS: In favor.

CHAIRMAN RHODES: The matter's  
approved and the recommendation is adopted.  
Secretary Phillips, is there anything further to come  
before us today?

SECRETARY PHILLIPS: No, there is not.

CHAIRMAN RHODES: Thank you. Thank  
you all. With that, we are adjourned.

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STATE OF NEW YORK

I, MIMSOU LEE, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 11, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 8th day of December 2019.

MIMSOU LEE, Reporter

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