High Bridge Wind Project

Case No. 18-F-0262

1001.31 Exhibit 31

Local Laws and Ordinances

EXHIBIT 31 LOCAL LAWS AND ORDINANCES

Throughout the pre-application development phase of the Facility, the Applicant has been in consultation with the municipalities whose requirements are the subject of this Exhibit to determine whether all such requirements have been correctly identified. The Facility is proposed in the Town of Guilford in Chenango County.

When the Applicant submitted the Preliminary Scoping Statement (PSS) the Applicant identified a list of local ordinances, laws, resolutions, regulations, standards or other requirements applicable to the construction or operation of the Facility, and noted that the Town of Guilford did not have zoning, or any land use laws related specifically to wind energy generation. The Town subsequently proposed a local law governing energy generating facilities, including wind energy facilities such as the High Bridge Wind Project, but no law has been adopted as of the date of this Application. If and when the Town adopts such a law, the Applicant will submit updates to this Application assessing the Facility's compliance with the substantive provisions contained therein, as well as a copy of the adopted law.

Aside from the proposed Renewable Energy Systems Local Law, the Town of Guilford had previously adopted various local laws relating to flood protection, driveway permits, unnecessary noise and other matters. As noted in the PSS, these laws would apply to the Facility but for the passage of Article 10 of the New York Public Service Law (PSL), which supplants the procedural requirements of these local laws.

In Chenango County, as in much of New York State, zoning authority is held by towns, villages and cities. Chenango County does not have any applicable laws, ordinances, regulations, standards, or other requirements directly applicable to the construction or operation of the Facility other than the general law, Local Law Number 2 of 2010, which authorizes Chenango County to administer and enforce the New York State Uniform Fire Prevention and Building Code through, for example, the ministerial issuance of building permits and certificates of occupancy, and the performance of inspections.

(a) List of Applicable Local Ordinances and Laws of a Procedural Nature

Article 10 requires major electric generating facilities in New York State to be reviewed in a unified state-siting proceeding instead of requiring a developer to apply for numerous State and local permits. The Applicant has compiled a list of local ordinances, laws, resolutions, regulations, standards, and other requirements of a procedural nature that would otherwise be required for the construction or operation of the proposed Facility and interconnection and stipulated to the applicable laws with the Town. In particular, the Applicant has followed and submitted comments on the Town's proposed Renewable Energy Systems Law, which has not yet been adopted.

Generally, the local procedural requirements listed below are supplanted by PSL Article 10 unless the Siting Board expressly authorizes the exercise of the procedural requirement by the local municipality or agency. Copies of these local laws are included as Appendix 31-A.

Town of Guilford

- Local Law 1 of 1979, Environmental Review of Actions
  - Section 03 – SEQR and Part 617 Compliance
  - Section 04 – EAF Preparation
  - Section 05 – EIS Preparation
  - Section 08 – Environmental Review
- Local Law 2 of 1992, Prevention of Unnecessary Noise
  - Section 3 – Violations Penalties and Procedures
- Local Law 1 of 1995, Disposal of Sewage [applicable to septic systems]
  - Section 4 – Sewage Disposal Permits
  - Section 8 – Violations
  - Section 9 – Enforcement
  - Section 10 – Compliance
- Driveway Permits[1]

Chenango County

- 2010 Local Law 2, Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code
  - Section 04 – Building Permits
  - Section 05 – Construction Inspections
  - Section 07 – Certificates of Occupancy
- Highway Work Permit[2]
- Driveway Permit[3]

[1] It does not appear that any specific local laws exist which address Driveway Permits. However, the Town makes such permit applications available on its website. During discussions with the Town on local road use agreements and compliance with road-related provisions, the Applicant will clarify the need for and/or compliance with these requirements.
[2] It does not appear that any specific local laws exist which address these Highway Work Permits. However, the County makes such permit applications available on its website. During discussions with the County on local road use agreements and compliance with road-related provisions, the Applicant will clarify the need for and/or compliance with these requirements.
[3] It does not appear that any specific local laws exist which address Driveway Permits. However, the County makes such permit applications available on its website. During discussions with the County on local road use agreements and compliance with road-related provisions, the Applicant will clarify the need for and/or compliance with these requirements.

(b) Local Procedural Requirements Requiring Board Authorization

The Applicant requests the Board expressly authorize the Town of Guilford and the Chenango County Health Department to issue local permits associated with the installation of septic and drinking water well systems at the O&M Building. Pursuant to Section 4 of the Town of Guilford Sewage Disposal Regulations (Local Law Number 1 of 1995), the Town may issue permits to construct sewer/septic systems in the Town. Chenango County's Department of Environmental Health also reviews and approves sewage systems, and non-community water systems. During a telephone call to the County's Environmental Health Division on June 25, 2019, County staff indicated that the Town would generally take the lead on the septic system approvals and would bring the County in to review only if a non-standard system was proposed. Therefore, the Applicant expects to work with the Town on any septic system needed for the O&M building, and to engage the County only if needed.

The Applicant requests the Town and County be authorized to retain their respective authority to issue permits for septic and water systems because the timing of the submittal of this Application, and the timing of the design and construction of the sewage and well system for the O&M Building, is such that the Applicant will not have the level of detailed information needed to provide to the Siting Board in this Application. This information will be prepared once the final location for the O&M building is identified prior to commencement of construction. The Applicant will work with both the Town and County to follow all of their respective procedural and substantive requirements for the permitting of septic and water. The Applicant is not proposing large interconnections and does not anticipate the need for new municipal systems for the number of employees anticipated to work at the O&M building. Regulation of septic and well systems is primarily an issue of local concern, involving routine matters, and permits required are ministerial in nature provided the Applicant meets the applicable standards. Therefore, rather than have the Siting Board reach a decision on this matter, it is more appropriate for the County to issue local sewer and water permits as needed.

Furthermore, the Applicant requests that with respect to county-owned/town-owned roadways the Town of Guilford and Chenango County be expressly authorized to apply existing local regulations related to highway work permits, driveway permits, special haul permits for oversized/overweight vehicles, maintenance and road preservation laws, local road construction standards, and other local laws applicable to use of, and construction in or near, such roadways during construction and/or operation of the Facility, where applicable. This authorization would allow the Town and/or the County to either impose existing permitting requirements and local ordinances or enter into RUAs, which would apply to the Facility in lieu of highway work permit applications and the application of substantive road use and maintenance laws. Therefore, to the extent that Chenango County and the Town of Guilford have such road-use related local laws, the Applicant hereby requests the Siting Board authorization

for local oversight of those ministerial approvals, which are matters of primarily local concern, to the extent they are applicable to this Project.

As noted in Exhibit 25, the timing of the issuance of these highway work and special haul permits is such that the Applicant will not have the information needed to provide to the Board in this Application. These permits are often obtained by the Balance of Plant (BOP) contractor immediately prior to construction of any facility. The Applicant will work with the County and Town to follow all their procedural and substantive requirements for the permitting of highway work permits and special haul permits. Highway work and similar road permits are primarily an issue of local concern and ministerial in nature provided the Applicant meets the applicable standards. In addition, the Applicant, the County, and the Town will discuss terms for a RUA regarding the Applicant's obligations with respect to road use and repair.

Lastly, assuming that the Town adopts a local law governing met towers, the Applicant is requesting that, to the extent temporary wind measurement ("Met") towers are needed in the future, the Siting Board authorize the Town to issue met tower permits required therefor. Occasionally, a Facility of this nature may need to install temporary Met Towers to obtain more location-specific data, but the need for additional temporary towers is not known at this time. These towers have very limited, temporary impacts, and the Town's required permits are ministerial in nature, provided the Applicant meets applicable standards.

There are no other procedural requirements that the Applicant requests that the Board expressly authorize.

(c) Identification of Municipal Agency Qualified to Review and Approve Building Permits

Chenango County is qualified by the New York State Secretary of State to review and approve building plans, inspect construction work, and certify compliance with the New York State Uniform Fire Prevention and Building Code, and the Energy Conservation Code of New York State. The County's Director of Code Enforcement is:

Isaiah Sutton
Director
Chenango County Code Enforcement
5 Court Street
Norwich, NY 13815

County Building Inspectors: Steve Fox and Ian Oldham

While the Town of Guilford does not issue its own building permits, the Town has designated a Septic Inspector, Tom Parkhurst, for purposes of administering Town sewer permits.

Due to the complex nature of the Facility, the Applicant anticipates providing funding for the Town and County to retain an independent consultant to aid in reviewing Facility compliance with the New York State Uniform Fire Prevention and Building Codes and the Energy Conservation Code of New York State.[4] For a wind powered electric generating facility, this work is typically limited to turbine foundations and the O&M building. The Applicant expects to address this topic as part of its discussions with the Town and County on local road use, decommissioning, and host community agreements, and anticipates Certificate conditions will address these matters more fully.

(d) List of Applicable Local Ordinances and Laws of a Substantive Nature

In consultation with the Town, the Applicant has compiled the following list of local ordinances, laws, resolutions, regulations, standards, and other requirements of a substantive nature required for the construction or operation of the proposed Facility and interconnection. See Appendix 31-A for copies of potentially applicable local laws. Floodplain and similar maps, tables and/or similar documents can be found in Figure 15-1.

The local laws containing substantive provisions which have been applied to the design of the Facility or are otherwise applicable are set forth below.

Town of Guilford[5,6]

- 1992 Local Law 2 – Prevention of Unnecessary Noise
- 1995 Local Law 1 – Disposal of Sewage
  - Section 4 – Sewage Disposal
  - Section 5 – Distances
  - Section 6 – Standards

[4] The New York State Department of State (NYSDOS) has stated that the Building Code of New York State does not regulate wind generators or free-standing communication towers. See NYSDOS, Division of Code Enforcement and Administration, Technical Bulletin January 1, 2003, Communication Towers, Cellular Towers and Wind Generators.

[5] The PSS identified Local Law Number 1 of 2010 as a potentially applicable local law. This provision deals with construction in Special Flood Hazard Zones in the Town of Guilford. At this time, no components are proposed in these Special Flood Hazard Zones, therefore the provision is not applicable.

[6] As of the date of this Application, the Town of Guilford has proposed, but has not yet adopted, a renewable energy systems law which would apply to the Facility. If and when the Town adopts this law, the Applicant will update the Application with a discussion of the law's substantive and procedural provisions, as well as the proposed Facility's compliance therewith.

- Driveway Permits[7]

Maps of specially designated areas, and recreational and other sensitive land uses within the 5-mile Study Area can be found in Exhibit 4 (Figures 4-2 and 4-6). Because the Town of Guilford does not have zoning, no map of existing and proposed zoning is provided, however maps of existing and proposed zoning in adjacent towns within the 5-mile Study Area are provided in Exhibit 4, to the extent those towns have adopted zoning (see Figure 4-4).

(e) List of Substantive Local Ordinances/Laws that the Applicant Requests the Board Not Apply

At this time, the Applicant intends to comply with all the substantive requirements listed above. Therefore, the Applicant is not requesting that the Siting Board rule any provisions of local law are unreasonably burdensome in view of the existing technology, practicable implementation of the Facility, or the needs of or costs to ratepayers whether located inside or outside of such municipality.

As noted above, as of the date of this Application, the Town of Guilford has proposed, but has not yet adopted, a renewable energy systems law which would apply to the Facility. If and when the Town adopts this law, the Applicant will update the Application with a discussion of the law's substantive and procedural provisions, as well as the proposed Facility's compliance therewith, and will indicate any substantive provisions the Applicant requests the Board not apply.

(f) List of Procedural Local Ordinances/Laws Related to Use of Water, Sewer, or Telecommunication Lines

The Facility will not be connecting to any water, sewer, or steam lines in public rights-of-way, and does not anticipate connecting to telecommunications lines in public rights-of-way. The only Facility component requiring water/wastewater service is the operation and maintenance (O&M) building. However, it is not anticipated that any off-site interconnections will be needed because the O&M building will utilize on-site water sources (e.g., drinking water well) and wastewater treatment facilities (i.e., an individual septic system), the permits for which are addressed in sections (a)(b) and (d), above. Thus, at this time, no permits or approvals related to drinking water or wastewater interconnection are required, and no new off-site telecommunications lines or steam lines will be required for the Facility. Therefore, the Applicant has not identified any local ordinances, laws, resolutions, regulations, standards or other requirements of a procedural nature applicable to interconnection-related use of water, sewer, telecommunication and steam lines in public rights of way associated with the Facility.

[7] It does not appear that any specific local laws exist which address Driveway Permits. However, the Town makes such permits applications available on its website. During discussions with the Town on local road use agreements and compliance with road-related provisions, the Applicant will clarify the need for and/or compliance with these requirements.

(g) List of Substantive Local Ordinances/Laws Related to Use of Water, Sewer, or Telecommunication Lines

As discussed in Section (f) above, the Facility will not be interconnecting to any water, sewer, or steam lines in public rights-of-way, and does not anticipate interconnecting to telecommunications lines. Therefore, the Applicant has not identified any local ordinances, laws, resolutions, regulations, standards or other requirements of a substantive nature applicable to the interconnection-related use of water, sewer, telecommunication and steam lines in public rights of way associated with the Facility.

(h) Local Ordinances/Laws Related to Use of Water/Sewer that the Applicant Requests the Board Not Apply

The Applicant does not request that the Siting Board elect not to apply any of the procedural or substantive requirements under subdivision (f) and (g) because there are no applicable provisions.

(i) Summary Table of Substantive Local Requirements

The below table provides a list of all applicable substantive requirements to the Facility as well as a description of how the Applicant plans to meet compliance.

Table 31-1: List of Applicable Substantive Requirements to the Facility and Anticipated Degree of Compliance[8]

Substantive Provision	Degree of Compliance
Town of Guilford[9]	
Local Law 2 of 1992 – Prevention of Unnecessary Noise	
Section 2(A) It shall be unlawful for any person to make, continue or cause to be made or continued any unnecessary or unusual noise which harasses, annoys, injures or endangers the comfort, repose, health or safety of others in the community. Noise made in the operation of machinery or in the exercise of any trade or calling shall be exempted from this law, unless the noise that is made as a consequence of the same shall be of such nature that it constitutes harassment and constitutes a serious threat to the health, safety, life or limb of some person.	The Facility will comply with this requirement.

[8] Per section (b) above, the Applicant is requesting that the Siting Board authorize the Town and County to issue permits or approvals related to highway matters, septic systems and drinking water for the O&M building. Therefore, the substantive provisions from those local laws are omitted from this chart and will be addressed at the local level.

[9] As of the date of this Application, the Town of Guilford has proposed, but has not yet adopted, a renewable energy systems law which would apply to the Facility. If and when the Town adopts this law, the Applicant will update the Application with a discussion of the law's substantive provisions, as well as the proposed Facility's degree of compliance therewith.

Section 2(E) It shall be unlawful the build, erect, demolish, alter or repair a building, structure, or to operate equipment or appliances between the hours of 11:00 p.m. and 7:00 a.m. current time, in such a manner as to produce a continuous noise so that it results in harassment and undue disturbing of the peace and quiet of the neighborhood.	The Facility will generally comply with this requirement. Except: that there may be some limited circumstances when work within these hours is required, such as continuous concrete pours or installation of turbine components that must be done during less windy periods, which may occur at night, for safety reasons. Applicant will work with the Town to identify circumstances or conditions which would require work during these hours and will take reasonable steps to provide notice to adjacent landowners.

(j) Zoning Designation

This section is not applicable as no local laws or ordinances establishing zoning designations or classifications have been passed in the Town of Guilford.