



Office of
Renewable
Energy Siting

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October 12, 2021

Isaac Phillips, Development Manager
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Houston, TX 77002
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RE: Matter No. 21-00750 - NOTICE OF INCOMPLETE APPLICATION

Executive Law §94-c Permit Application of ConnectGen Chautauqua County, LLC, for the proposed South Ripley Solar Project, located in the Town of Ripley, Chautauqua County (270 MW Solar)

Dear Isaac Phillips:

Based upon review of the above Permit Application submitted by ConnectGen, LLC (Applicant) on August 10, 2021, the Office of Renewable Energy Siting (the Office or ORES) has determined that the Application, as submitted, is incomplete. A list of incompleteness and a description of the specific deficiencies are 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 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to respond in writing to the Office's notice of incomplete application may result in the Application being deemed withdrawn without prejudice in compliance with 19 NYCRR §900-4.1(f).

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. 21-00750 South Ripley Solar Project**

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 CO₂ and other emissions per year set forth in the Application.

General Requirements for Applications

1. 19 NYCRR §900-1.4(a)(4)(iii) requires that the Applicant's website contain "[a] statement that the application ... may be examined during normal business hours at the Office of Renewable Energy Siting, and the local library(ies)..." Please update the link to access the 94-c application documents which currently connects to the DMM page for the Article 10 case (19-F-0560).
2. 19 NYCRR §900-1.6(a)(1)-(8) requires that the Applicant serve paper and electronic copies of the Application on ORES and specific entities. Please provide the affidavit of service.

3. 19 NYCRR §900-2.1(e) requires that "[i]f the same information is required for more than one exhibit, it may be supplied in a single exhibit and cross-referenced in the other exhibit(s) where it is also required." When addressing the comments set forth herein, the Office respectfully requests that additional cross-references to other Exhibits and Appendices be included in the updated Application materials.
4. 19 NYCRR §900-3.2(b)(3) requires "[a] completed transfer of application form" for pending Article 10 facilities that have been filed but not deemed to be in compliance with Article 10 requirements. Please provide a copy of the completed transfer application form.
5. To the extent information requested herein is already provided in another Application Exhibit, Appendix or Figure, the Office will consider a revised Exhibit, Appendix and/or Figure containing appropriate cross references to that information (with supporting explanation(s), where required).
6. With full recognition of the work completed by the Applicant to date, and to avoid repetition below, the following Exhibits are deemed incomplete based upon the discussion of Exhibit 9 (Cultural Resources) in this notice: Exhibits 2, 3, 5, 8 and 24. The Office reserves the right to provide additional comments on these Exhibits, and any other Application Exhibit(s), once Exhibit 9 is complete.

Exhibit 2 - Overview and Public Involvement

1. Exhibit 2 contains a description of the components of the proposed Solar Facility, and an analysis of the proposed Facility's potential environmental and other impacts. In compliance with 19 NYCRR §900-2.3(a), please supplement Exhibit 2 to include cross-references to the Exhibit 5 Design Drawings which support each of the required findings, determinations and considerations requested of the Office. If a particular avoidance, minimization or mitigation measure is critical to the Applicant's analysis, please consider refining citations to include specific portions of large Exhibits or reports detailing the point (e.g., and without limitation, citing to discussion of specific examples of stream and wetland avoidance in addition to the general citation to Appendix 14-C on page 6 of Exhibit 2).

Exhibit 3 - Location of Facilities and Surrounding Land Use

1. 19 NYCRR §900-2.4(g) requires “[a] map of existing zoning districts and proposed zoning districts within the study area and a description of the permitted and the prohibited uses within each zone.” Please supplement Exhibit 3 with a description of the permitted and prohibited uses for each zone within the Study Area.
2. 19 NYCRR §900-2.4(j) requires “[m]aps showing ... local waterfront revitalization program areas ... and coastal erosion hazard areas, that are located within the study area.” Please update Figure 3-8 to depict any revisions to the Northern Chautauqua County Local Waterfront Revitalization Program (LWRP) area and include the coastal erosion hazard areas.
3. 19 NYCRR §900-2.4(o) requires “[a]n analysis of conformance with relevant provisions of the ... proposed or adopted Local Waterfront Revitalization Plans.” Exhibit 3 (pages 12-13) indicates that a draft LWRP for Northern Chautauqua County is expected to be finalized and adopted by August 2021 and that portions of the LWRP area overlap the Facility Site in the Town of Ripley, including Twentymile Creek and Belson Creek. Please provide an update on this proposal and analysis of the Facility’s conformance with the relevant provisions of the proposed or adopted LWRP.
4. 19 NYCRR §900-2.4(u)(1) requires “[a] description of a survey...The purpose of the survey is to determine whether any NYSDEC-regulated wells are present within 500 feet of proposed areas to be disturbed, and if so, identification of the wells and type, if known.” Figure 3-12 lacks well identification, status, and type; please revise accordingly. The Applicant provided additional well locations that are not included in New York’s Oil and Gas Database, administered by DEC’s Division of Mineral Resources. Please provide the coordinates of those additional well locations and any other well locations that were not consistent with locations identified in New York’s Oil and Gas Database. Lastly, please ensure that all wells, including plugged wells, that are within 500 feet of the Project boundary or proposed area of disturbance, are identified. Two examples of missing wells: 31-013-00030-00-00 (DH | PA) and 31-013-10031-00-00 (GD | AC).

Exhibit 5 - Design Drawings

1. Professional Engineer - 19 NYCRR §900-2.6(a) requires "[d]rawings to be submitted pursuant to this section 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 revised drawings with the name of the professional engineer clearly printed.
2. Elevation Details - 19 NYCRR §900-2.6(f)(2)(i) requires that "[t]ypical elevation drawings indicating the length, width, height, material of construction, color and finish of all buildings, structures, and fixed equipment..." be provided for:
(d) "[e]nergy storage system(s) (including fencing, gates, and buildings); a general arrangement plan shall be included in the elevation drawing set showing elevation mark pointers (arrows) with reference to associated elevation views (including views of all components of the energy storage system)." Please provide a plan view with arrow references to elevation view drawings included in the Application and indicate the height of the battery storage structure.
3. Access Road Details - §900-2.6(f)(2)(ii) states that "[e]ach proposed permanent point of access or access type shall include ... identification of materials to be used along with corresponding material thickness..." Please specify the proposed aggregate material for the access roads in the Stabilized Construction Access Detail included in Drawing SRS-C-101 as part of the "Typical Civil Details" set. Also, please correct the material thickness which lists 6 feet as the minimum, but later notes 6 inches.

Exhibit 6 - Public Health, Safety, and Security

1. 19 NYCRR §900-2.7(a) requires a statement that identifies, describes and discusses all efforts made by the Applicant to avoid, minimize and mitigate potential adverse effects of the construction and operation of the Facility on the environment, in addition to public health and safety discussed in Exhibit 2, with allowance for matters discussed in other Exhibits. For clarity, please include additional comments and/or cross-references to Exhibit 2 and other

Application Exhibits for the Applicant's analysis of the required issues.

2. 19 NYCRR §900-2.7(c)(4) requires that the Safety Response Plan include "[c]ommunity notification procedures by contingency." Please update Appendix 6-B to include the Community Notification Requirement for Section 5.5.4 and indicate which entity will perform the notification procedures in Sections 5.5.5, 5.5.7 and 5.5.8.

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)(ii) requires "[a] maximum noise limit of forty (40) dBA Leq (1-hour) at the outside of any existing non-participating residence from the collector substation equipment." This threshold is decreased by 5 dBA if a prominent tone occurs. The Pre-Construction Noise Impact Assessment (PNIA) in Appendix 7-A does not provide sound pressure levels from the collector substation exclusively under the scenarios listed in the Application. Although Table 7-3 shows that the maximum sound level from the substation is 39 dBA (with a 5 dBA penalty included), it does not specify the receptor at which this level is expected to occur, or how the level was obtained. Please provide the sound pressure levels from the collector substation equipment exclusively and specify whether these levels, in combination with any tonal penalty, comply with the maximum design goal at any non-participating residence.
2. 19 NYCRR §900-2.8(d)(1)(ii) requires that the model "[u]se a ground absorption factor of no more than $G=0.5$ for lands and $G=0$ for water bodies." Exhibit 7 states that "...[t]he Project collection substation ... ground absorption factor was set to $G=0.6$ as dictated by Project design." Please remodel the Project collection substation using a ground absorption of no more than $G=0.5$ and report the results.
3. 19 NYCRR §900-2.8(h)(1) requires that "[t]he sensitive sound receptors shown..." are "...identified by property tax codes..." Please revise the following figures and tables to include Tax ID numbers for sensitive sound receptors: Figures 7-1, 7-2;

Figures 28-41 in the PNIA; Figures 42-44 and Tables 20-21 in Appendix C of the PNIA.

4. 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 ISO-9613-2:1996 propagation standard ... for the main phases of construction, and from activities at any proposed batch plant area/laydown area." Please assess construction noise from the batch plant area/laydown area.
5. 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." Please evaluate the cumulative effect of all construction activities and sites that will need to occur or operate simultaneously across the entire Project site to meet the proposed schedules identified in Section 7.5 and report the results.
6. NYCRR §900-2.8(j)(4) requires that "[s]ound impacts shall be reported with sound level contours (specified in subdivision (k) of this section) on the map described in subdivision (h) of this section..." The majority of sound impacts are reported with sound contours for only a portion of the Project Area rather than for the entire Study Area. Please provide noise contours for construction activities, as required by subdivisions (k)(1) and (k)(2). Please report the impacts until the 30 dBA noise contour is reached, as required by subdivision (k)(3), on the map of the Study Area with all the details required by subdivision (h).
7. 19 NYCRR §900-2.8(k)(1) requires that "[t]he application shall include legible sound contours rendered above the map specified in subdivision (h) of this section." 19 NYCRR §900-2.8(k)(2) requires "[s]ound contours shall include all sensitive sound receptors and boundary lines (differentiating participating and non-participating) and all noise sources (e.g., ... inverters and medium to low voltage transformers for solar)." Participating and non-participating receptors, boundary lines and parcel lines are difficult to distinguish in Figures 28 through 41 of the PNIA. Receptors need to be labeled with the corresponding receptor ID's. Contour maps for Figure 7-1 do not distinguish property lines. In addition, information about whether an inverter or medium voltage

transformer (MVT) has a 1 MVA, 2 MVA, or 3 MVA electrical power is not found on the sound contour drawings or tables in Exhibit 7. Please revise these figures accordingly.

- 8.19 NYCRR §900-2.8(o) requires "[a]n identification and evaluation of noise abatement measures for the design and operation of the facility..." Please provide mitigated sound power level information from the manufacturer for the substation transformer, energy storage and HVAC equipment (if needed), and as included in the computer noise model.
- 9.19 NYCRR §900-2.8(p)(2) requires that "[c]omputer noise modeling files shall be submitted by digital/electronic means." Please submit the computer noise modeling files.
10. 19 NYCRR §900-2.8(p)(5)(ii) requires "[s]ound information from the manufacturers for all noise sources as listed above, and any other relevant noise sources." Please revise the PNIA to include the manufacturer data for the substation high voltage transformer, MVT, string inverters (differentiated based on MVA ratings) (with and without cooling fans, if available), battery storage facility, and the HVAC equipment for the battery storage. If the manufacturer information is not available, but was obtained with a test, please provide a copy of the test report indicating whether it corresponds to the same equipment proposed for the Facility and any other relevant information of the test (e.g., and without limitation, technical specifications of the equipment tested, description of standards followed, sound instrumentation, testing conditions, derivation of results). If sound power levels were estimated based on standards and/or algorithms, please provide a clear derivation of sound power levels. When sound power level information from a transformer manufacturer is not available, levels can be estimated by using the algorithms recommended by the Electric Power Plant Environmental Noise Guide (Volume 1, 2nd edition. Edison Electric Institute. Bolt Beranek and Newman Inc. Report 3637. 1983 Update). If additional mitigation measures for the substation MVT, string inverters, battery storage facility, and HVAC equipment are necessary to comply with design goals in §900-2.8(b)(2), please submit those details. Although sound power levels for array inverters are described as 86 dBA, 89 dBA, and 91 dBA, no basis or derivation is presented in the Application. Please

confirm the electrical power for all MVTs and the associated sound power levels.

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(a) requires that Exhibit 8 and Applicant's Visual Impact Assessment (VIA) determine the extent and assess the significance of the proposed Facility's visibility and include a detailed assessment of the potential visibility of the proposed Solar Facility and associated components.
 - a. Visually Sensitive Resources - Please update section 5.2 of the VIA at Appendix 8-A to include narrative assessment of visual impact(s) to all Visually Sensitive Resources (VSRs) identified as having potential Facility visibility based upon the Applicant's viewshed assessment.
 - i. To facilitate review, please prepare an alphanumeric index of the Visually Sensitive Resources identified in Table 5.2-1 (or cross-reference to an existing index elsewhere in Exhibit 8 or accompanying Appendices). Using this index, please add suitable references for each VSR to the base map at Figure 3.6-1 (Visually Sensitive Resources), and to each of the viewshed maps at Figure 5.1-1 (PV Panel DSM Viewshed Analysis), Figure 5.1-2 (Collection Substation and BESS DSM Viewshed Analysis) and Figure 5.1-3 (Overhead Collection Line DSM Viewshed Analysis), similar to the viewpoint locations indexed in Figure 5.1-4 (Viewpoint Locations).
 - ii. To facilitate review, please also add the viewpoint locations indexed in Figure 5.1-4 to the viewshed maps at Figure 5.1-1 (PV Panel DSM Viewshed Analysis), Figure 5.1-2 (Collection Substation and BESS DSM Viewshed Analysis) and Figure 5.1-3 (Overhead Collection Line DSM Viewshed Analysis).

- iii. Please provide additional line-of-sight profiles analyzing potential visibility from the two properties eligible to be listed on the National Register of Historic Places (South Ripley Cemetery and the nineteenth century farmstead located at 4704 State Route 76), and all other identified visually sensitive resource (VSR) having potential Facility visibility (as identified in the Application, as amended and supplemented).

b. Additional Viewshed Mapping Comments -

- i. The composite viewshed map at VIA Attachment A (Composite Overlay) presents three viewshed overlays (Collection Substation and BESS, Overhead Collection Line, and PV Panels) as well as four landscape similarity zones, visually sensitive resources, and facility components. Most of these features are represented using a solid or transparent overlay.

- A. To facilitate review, please consider a larger map or alternative composite map presentation to clarify overlay information, terrain/sight lines, etc. This map presents significant information, and the colored overlay with multiple features makes the map very difficult to read and obscures the underlying base map information making geolocation difficult to discern.

- B. Please add the indicators for VSR and viewpoints referenced above.

- c. Facility Lighting - 19 NYCRR §900-2.9(a) (5) requires the VIA to address "[t]he proposed facility lighting (including lumens, location and direction of lights for facility site and/or task use, and safety including worker safety and tall structure marking requirements) and similar features," with additional detail contained in a Lighting Plan meeting the requirements of 19 NYCRR §900-2.9(d) (9).

- i. Please supplement Exhibit 8 and the VIA at Appendix 8-A (e.g., discussion at p. 40) to include an

assessment of potential visual impact(s) of Solar Facility lighting (including additional information regarding the lumens, location, and direction of proposed Facility lighting) at all Facility components, including, without limitation, the collection substation and point of interconnection (POI) switchyard, the operations and maintenance building, and the Battery Energy Storage System (BESS).

- ii. 19 NYCRR §900-2.9(d)(9)(ii) requires "[p]lan and profile figures to demonstrate the lighting area needs and proposed lighting arrangement and illumination levels..." The lighting plan drawings included in Exhibit 5 do not include profile figures. Please provide revised Exhibits 5 drawings that include plan and profile figures.
 - iii. 19 NYCRR §900-2.9(d)(9)(iii)(b) requires a Lighting Plan that addresses "...full cutoff fixtures, with no drop-down optical elements (that can spread illumination and create glare) for permanent exterior lighting, consistent with OSHA requirements and adopted local laws or ordinances, including development standards for exterior industrial lighting, manufacturer's cut sheets of all proposed lighting fixtures..." The Exhibit 8 Lighting Plan (Appendix 8-B) does not directly address use of "full cutoff fixtures, with no drop-down optical elements." In addition, manufacturer's cut sheets of all proposed lighting fixtures are not provided. Please provide a revised Lighting Plan to resolve these deficiencies and/or provide appropriate cross-references where the information is provided in other Application exhibits or appendices.
- d. Viewshed Analysis/Viewpoint Selection - 19 NYCRR §900-2.9(b)(4)(iv) requires the Applicant to consider "proposed land uses..." in the visual analysis and viewpoint selection. Please describe how proposed land uses within the visual study area were considered in

development of the visual analysis and viewpoint selection.

- 2.19 NYCRR §900-2.9(a) requires that the Applicant's VIA include a cumulative visual impact analysis. Please supplement the discussion at VIA Section 5.3.7 (Cumulative Visual Impacts) (Appendix 8-A) to include discussion of how the Applicant's proposed Facility is sited to avoid, minimize and/or mitigate potential visual impact(s) to the surrounding community, including potential VSRs and other resources.
- 3.19 NYCRR §900-2.9(a) requires that the Applicant's VIA include a Visual Impacts Minimization and Mitigation Plan meeting the requirements of 19 NYCRR §900-2.9(d).
 - a. Please supplement the VIA (Appendix 8-A) and Visual Impacts Minimization and Mitigation Plan (Appendix 8-B) to include additional narrative discussion of the environmental, engineering and other factors leading to the Applicant's determination to install approximately 4.5 miles of collection lines overhead, the assessment of potential visual impact(s) (with reference to other Application Exhibits including photographic simulations and design drawings) and the balancing of interests and Applicant's proposed measures to avoid, minimize and/or mitigate potential visual impact(s).
 - b. Please supplement the Visual Impacts Minimization and Mitigation Plan (Appendix 8-B) to include additional narrative discussion of how the Applicant's proposed Facility is sited to avoid, minimize and/or mitigate potential visual impact(s) to the surrounding community, including potential VSRs and other resources (with reference to other Application Exhibits including photographic simulations and design drawings). Without limitation, please review and supplement the discussion of visual offset, potential Project reductions and aboveground utilities in Section 2.0 of the Plan at Appendix 8-B.

Additional visual information may be required to complete Exhibit 9 and/or support Applicant's requests in Exhibit 24 for the Office to not apply certain provisions of local law, as discussed in the comments below.

Exhibit 9 - Cultural Resources

- 1.19 NYCRR §900-2.10(b) requires "[a] study of the impacts on historic resources within the project impact area, including the results of field inspections, a review of the statewide inventory of historic property, and 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, including an analysis of potential impact on any standing structures which appear to be at least fifty (50) years old and potentially eligible for listing in the State or National Register of Historic Places, based on an assessment by a qualified individual."

The Office in consultation with the Office of Parks, Recreation and Historic Preservation (OPRHP) notes that an effect opinion from the State Historic Preservation Office (SHPO) on the proposed Solar Facility has yet to be issued, due to ongoing review of the Applicant's Phase 1B and potential visual impacts to a site which is eligible to be included in the New York State and National Registers of Historic Places. Please continue to work with OPRHP/SHPO to complete the review process. The Application shall remain incomplete until all requested information is received by the Office.

2. Please revise Appendix 9-G, the Unanticipated Discovery Plan, to include the following notification requirement: Permittee will promptly notify DPS Staff indicating details of any such discovery of possible archaeological or human remains.

Exhibit 11 - Terrestrial Ecology

- 1.19 NYCRR §900-2.12(a) requires "[a]n identification and description of the type of plant communities present on the facility site, and adjacent properties within one hundred (100) feet of areas to be disturbed by construction..." Please ensure that tall ironweed (*Vernonia gigantea*) is described consistently throughout Exhibit 11 as endangered.
- 2.19 NYCRR §900-2.12(c) requires "[a]n identification and evaluation of avoidance measures or, where impacts are unavoidable, minimization measures, including the use of alternative technologies, regarding vegetation impacts

identified." The Application states that the locations where tall ironweed occur are "critical development area[s] for the siting of PV arrays to meet the Facility's capacity targets" and describes minor steps during the design process to reduce impacts to this state-endangered plant species.

- a. Please explain why reducing or relocating panels from known concentrated areas of tall ironweed are not feasible options to decrease impacts to this species.
 - b. Please explain why the access road on parcel 309.00-2-3 and the permanent impacts associated with that road could not be moved to an area with a lower density of tall ironweed.
3. 19 NYCRR §900-2.12(d) requires "[a] list of the species of ... terrestrial invertebrates ... that are likely to occur ... at ... the facility..." Please supplement Appendix 11-D with a comprehensive list of terrestrial invertebrates that are likely located on the Facility site.

Exhibit 13 - Water Resources and Aquatic Ecology

1. 19 NYCRR §900-2.14(b)(3) requires "[f]or the surface waters depicted on the map(s) required in paragraph (1) of this subdivision, a description of the New York State listed Water Quality Standards and Classification, ambient standards and guidance values, flow, presence of aquatic invasive species and other characteristics of such surface waters, including intermittent streams, based on actual on-site surface water observations conducted pursuant to section 900.1-3(f) of this Part." The Application only contains water quality standards and classifications for delineated surface waters; it does not contain the ambient standards and guidance values. Please provide the ambient standards and guidance values, which can be found on the NYSDEC website at: https://www.dec.ny.gov/docs/water_pdf/togs111.pdf.

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 §900-2.15.

1. 19 NYCRR §900-2.15(a) requires "[a] map or series of maps showing jurisdictional boundaries of all federal, state and locally regulated wetlands and adjacent areas present on the facility site and within one hundred (100) feet of areas to be disturbed by construction..." Please revise all maps of state jurisdictional wetlands to include 100-foot adjacent areas and label it "State-Regulated Adjacent Area."
2. 19 NYCRR §900-2.15(c) requires "[a] qualitative and descriptive wetland functional assessment, including seasonal variations, for all delineated wetlands that would be impacted..." While the Applicant provided a summary table of wetland functions and values in Appendix 14-B, the Wetland Data Forms completed during field delineation contained in Appendix 13-C do not provide specific information on the functions of individual wetlands. In addition, the discussion in Exhibit 14 and summary tables 14-1 and 14-2 categorize impacts as "permanent" or "temporary."
 - a. Please provide the "Wetland Function-Value Evaluation Form" (or similar form) for each wetland as described in "The Highway Methodology Workbook Supplement" referenced in the Application.
 - b. Impacts to wetlands and wetland adjacent areas should not be categorized as "permanent" or "temporary." Neither 19 NYCRR §900-2.15 nor the USACE New England District Highway Methodology Workbook Supplement use these terms. Total impact figures and summary tables of wetland and adjacent area impacts should be presented without temporal classifications.
3. 19 NYCRR §900-2.15(e) requires "...[a] demonstration of avoidance of impacts to such wetlands and their one hundred (100)-foot adjacent areas by siting all components more than one hundred (100) feet from any delineated NYS wetlands." 19 NYCRR §900-2.15(f) also requires the Applicant to explain all efforts made to minimize the impact(s) to wetlands and adjacent areas identified in wetland surveys if the Applicant cannot avoid impacts to those areas.
 - a. Overhead collector lines are proposed through large contiguous blocks of the following forested wetlands: FA Wetland 012, Wetland 46, FA Wetland 025, Wetland 108, FA Wetland 026, and FA Wetland 028. Please discuss whether

significant adverse impacts could be avoided or minimized by rerouting or undergrounding the collection lines using trenchless construction methods, such as hydraulic directional drilling (HDD).

4. 19 NYCRR §900-2.15(g) requires that the Applicant provide a Wetland Restoration and Mitigation Plan pursuant to 19 NYCRR §900-10.2(f)(2). The Applicant will be revising the information pertaining to impacted wetlands and adjacent areas as noted above, including without limitation revised acreage and removal of "permanent" and "temporary" impact references. The overall impact figure will dictate the required mitigation ratio as indicated in Table 1 of 19 NYCRR §900-2.15. Please ensure that any proposed Wetland Restoration and Mitigation Plan complies with the comments set forth herein and below, and the parameters set forth in 19 NYCRR §§900-2.15(g)(2)(i), (ii), (iii), and (iv).

- a. A description of the impacts requiring mitigation contained in Table 1 of 19 NYCRR §900-2.15, including a table that contains acreage impacted by each activity, broken down by wetland classification for each wetland or adjacent area.
- b. A description of the applicable mitigation ratios for each activity required in Table 1 of 19 NYCRR §900-2.15 and the proposed acreage of mitigation, broken down by creation, restoration, and enhancement.
- c. A description of the proposed or potential mitigation site(s), including a location map and a demonstration that each site is: subject to NYSDEC jurisdiction under ECL Article 24, within the same HUC 8 sub-basin as the impacts, and contiguous with an existing NYS-regulated wetland or within 50 meters of an existing NYS-regulated wetland.
- d. A description of the current condition of the proposed or potential mitigation site(s), including the extent of existing wetlands, distance to NYS mapped wetlands, vegetative characteristics, topography, and soil conditions.
- e. A narrative description of the proposed mitigation activities (e.g., removing existing fill in wetland,

replanting adjacent area, etc.) and a conceptual description of the functional lift over existing conditions expected at the mitigation site(s).

- f. Conceptual Project plans for proposed or potential mitigation site(s) that show existing features and the approximate extent of mitigation activities.
- g. A conceptual plan for long term control and protection of the mitigation site(s) (e.g., easement, ownership, etc.).

Exhibit 15 - Agricultural Resources

1. With full recognition of the Applicant's proposed site layout and design, please clarify Exhibit 15 to incorporate both the "Facility Site" and "LOCA" (each as defined by the Applicant) into the discussion of potential agricultural resources impact(s) in Table 15-4.
 - a. Please include discussion of the LOCA in this section and/or Table 15-4, with a discussion or footnote to the reference to the approximately 1,069 acres enrolled in Chautauqua County Agricultural District No. 1 (Exhibit 15 at p. 1).
 - b. Please provide a qualitative and quantitative analysis demonstrating the impact to agricultural land resources and MSG 1-4 (combined, including temporary and long-term) in acreage and as a percentage to Chautauqua County, the Town of Ripley, the Facility Site and LOCA.
 - c. If acreage within the Facility Site or LOCA will be returned to, or preserved for, active agricultural land use *during Facility operations*, please separately include discussion of the proposed agricultural use(s), the proposed location(s), discussion of feasibility, benefits and constraints, and potential reductions to net impact above.
2. Please supplement Exhibit 15 to include additional details on Applicant's overall efforts to avoid and/or minimize potential significant adverse impacts to agricultural resources in the Facility Site and surrounding area, so the record includes the Applicant's rationale for achieving this level of compliance. This discussion may include additional

detail on any landowner-imposed development restrictions (e.g., Exhibit 15, Section (3) and Figure 15-4) intended to preserve agricultural operations and similar measures, with relevant information incorporated into the Applicant's Agricultural Plan (Appendix 15-A). The Office requires this information for purposes of evaluating other potential environmental impacts, including without limitation those associated with the Applicant's requests for relief included in Exhibit 24.

Please review the following for potential typographical correction. A citation on page 8 may incorrectly refer to Figure 15-2 as Figure 11-2. An additional citation on page 9 may incorrectly refer to Figure 10-3 as Figure 10-2.

Exhibit 16 - Effects on Transportation

The information provided in Exhibit 16 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.17.

1. 19 NYCRR §900-2.17(a)(1) requires that the conceptual site plan include "[h]orizontal and vertical geometry, the number of approach lanes, the lane widths, shoulder widths, traffic control devices by approaches, and sight distances." Please revise Appendix 16-D to ensure that the sight distances and labels are clear and legible.
2. 19 NYCRR §900-2.17(d) requires an analysis and evaluation of the traffic and transportation impacts of the facility, including: (3) "...[t]he adequacy of roadway systems to accommodate oversize and over-weight vehicles;" and (4) "[a]n identification and evaluation of practicable mitigation measures..." Please describe the access road improvements at the substation entrance, include detail drawings, clearly indicate the potential impacts of the improvements, and list any mitigation measures necessary to minimize traffic and transportation impacts.

Exhibit 17 - Consistency with Energy Planning Objectives

1. 19 NYCRR §900-2.18(d) requires "[a] description of the impact the facility would have on regional requirements for capacity." Please supplement Exhibit 17 with a description of

the impact the facility would have on regional requirements for capacity with energy planning objectives.

Exhibit 18 - Socioeconomic Effects

The information provided in Exhibit 18 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.19.

1. 19 NYCRR §900-2.19(a) requires “[a]n estimate of the average construction work force, by discipline, for each quarter, during the period of construction...” Please supplement Exhibit 18 with information identifying the average construction work force, for each quarter, by discipline. Please also include any calculations or other supporting information used by the Applicant to develop its construction jobs estimate.
2. 19 NYCRR §900-2.19(b) requires “[a]n estimate of the annual construction payroll, by trade, for each year of construction...” Please supplement Exhibit 18 to include any calculations or supporting information used by the Applicant to develop its annual construction payroll estimate (by trade).
3. 19 NYCRR §900-2.19(i) requires “[a]n analysis of whether all contingency plans to be implemented in response to the occurrence of a fire emergency or a hazardous substance incident can be fulfilled by existing local emergency response capacity, and in that regard identifying any specific equipment or training deficiencies in local emergency response capacity (this analysis to be made after consultation with the affected local emergency response organizations).” Please discuss whether plans in response to an emergency incident can be fulfilled by existing local emergency response capacity in the Town of Ripley.

Exhibit 23 - Site Restoration and Decommissioning

The information provided in Exhibit 23 does not contain sufficient detail for the Office to complete its review in compliance with 19 NYCRR §900-2.24.

1. 19 NYCRR §900-2.24(a)(6) requires that the Decommissioning and Site Restoration Plan discuss, among other things, the amount of decommissioning costs secured. Exhibit 23 indicates

that the letter of credit is the decommissioning cost less the expected salvage value and/or resale value of components. Please revise as the resale value for PV modules should not be included in the calculation.

2. 19 NYCRR §900-2.24(c) requires that the Applicant provide, for the Town of Ripley, "[a] gross and net decommissioning and site restoration estimate, the latter including projected salvage value (including reference to the salvage value data source), with line items (and associated dollar amounts) for decommissioning.."

- a. Various data sources are referenced in Appendix 23-A including: external construction cost databases, such as, RS Means; and labor costs were estimated using regional labor rates and labor efficiencies from the Bureau of Labor Statistics. Please provide specific line items and costs from "RS Means," the Bureau of Labor Statistics and any other database used.

- b. The resale value of PV modules are included as salvage value offsets in Appendix 23-A. ORES does not consider the resale value of Facility components (i.e., solar panels) in the decommissioning estimate. Please update Appendix 23-A by eliminating the resale value and adjust the proposed decommissioning gross and net estimates accordingly.

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. Pursuant to 19 NYCRR §900-2.25(c), the Applicant requests that the Office elect not to apply, in whole or in part, certain local law provisions in the Town of Ripley. A number of local law provisions are in the existing Town of Ripley Zoning Law, and others are contained in a previously-proposed Town of Ripley Solar Energy Zoning Law (May 2021). At the time of application, the Applicant indicated that review of the proposed new local law was ongoing, and that the Applicant was in discussions with Town officials on certain existing and proposed requirements. While not set forth in the Application due to timing reasons, the Office now understands

that the Ripley Town Board adopted a version of the proposed local law on September 9, 2021 (Local Law No. 1 of 2021), and respectfully requests an overall update to Exhibit 24 to reference this change and reflect the actual relief requested by the Applicant. Please also supplement the Application to include a copy of Local Law No. 1 of 2021.

2. In connection with this Exhibit update, please provide additional supporting information and detail for each request identified in Exhibit 24, including but not limited to, the integration of measures implemented by the Applicant in other Application Exhibits to avoid, minimize and mitigate potential Facility impact(s) if the requested relief is granted.
 - a. Please provide additional analysis (including issue-specific information, maps 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.
 - b. Please provide additional detail on the degree to which the proposed Facility would comply with Town standards and/or the ORES regulations if the requested relief were granted; analysis of the potential significant adverse environmental impacts of the requested relief; the measures proposed by the Applicant to avoid, minimize and mitigate potential significant impacts to such resources; and a demonstration that the relief requested is the minimum necessary with respect to each resource (or category of resource(s)).
 - c. Please provide a fulsome discussion and demonstration for any local law provision which the Applicant asserts will preclude construction of the Facility entirely. Please update Exhibit 24 to include the Applicant's review of such issues with local agencies.
 - d. Revisions to Exhibit 24 requested herein may include new information and/or cross-references to materials already in the record.
3. With respect to the requirement in 19 NYCRR §900-2.25(e) that the Applicant identify the party or entity that will review

and approve the building plans, inspect the construction work, and certify compliance with the Uniform code and other applicable codes, please supplement Exhibit 24 to include "...a description of the preliminary arrangement made between the applicant and the entity that shall perform the review, approval, inspection, and compliance certification, including arrangements made to pay for the costs thereof including the costs for any consultant services necessary due to the complex nature of such facilities."

- 4.19 NYCRR §900-2.25(f) requires "[a]n identification of the zoning designation or classification of all lands constituting the facility site and a statement of the language in the zoning ordinance or local law by which it is indicated that the facility is a permitted use at the facility site". Please update Exhibit 24 to include this information, and any additional information relative to the recently-adopted Town of Ripley Local Law No. 1 of 2021.