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March 3, 2014

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Re: CASE 13-T-0585 – Application of Cricket Valley Energy Center, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for Approval of a New 345 kV Line From the Pleasant Valley Substation to the Cricket Valley Energy Center, LLC and the Reconductoring of an Existing 345 kV Line in the Town of Dover, Dutchess County.

Dear Messrs. Laniado, Podolny and De Meyere:

Upon a preliminary review of the documents submitted to date by Cricket Valley Energy Center, LLC (Cricket Valley) in the above captioned case, the documents, as submitted, are not filed or otherwise in compliance with Section 122 of the Public Service Law (PSL). The deficiencies identified must be remedied or otherwise cured before the documents can be deemed to comply with PSL §122 and the public hearing can be commenced.

PSL §123(1) provides for the setting of a date for the commencement of a public hearing on an Article VII application after receipt of an application that complies with PSL §122. PSL §122 establishes requirements for the content, filing, and service applications, as well as a requirement that the application contain such other information as the Commission may by regulation require. The Commission's regulations at 16 NYCRR Parts 85, 86 and 88 require other information.

Messrs. Laniado, Podolny and De Meyere

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The identified deficiencies are listed in Appendix A of this document. Appendix B outlines additional requests of information by Staff.

Please note that Cricket Valley is required to serve a copy of the information it files as a supplement, in order to remedy the deficiencies identified herein, on all parties entitled to receive a copy of the application pursuant to PSL §124(1) and 16 NYCRR §85-2.10(a), as well as any additional parties on the Active Parties List in this proceeding. Cricket Valley is also required to file the supplement in accordance with 16 NYCRR §3.5 and to file proof of service on the parties receiving service of the supplement.

If you have any questions concerning the matters discussed in this letter, please contact Anthony Belsito, Assistant Counsel, in the Office of General Counsel at (518) 474-1634.

Very truly yours,

Kathleen H. Burgess
Secretary

Enclosures

cc: Service List
Statutory Parties

APPENDIX A: DOCUMENT DEFICIENCIES

The following deficiencies, in addition to those acknowledged by the applicant, have been identified:

1. The documents do not comply with the requirements of 16 NYCRR§ 86.5(b) (7) to state the types of pesticides or herbicides, if any, that will be used in construction or maintenance of the proposed facility (including the volumes and manner of use). On page, 4-33 the use of herbicides are disclosed, but the types, volumes and methods of application have not been provided. The applicant must identify the New York State register products to be used in the preparation of the corridor, typical application methods and estimated volume of materials.
2. The documents do not comply with the requirements of 16 NYCRR§ 86.5(b) (8) to provide plans to locate and design appurtenant structures to minimize their environmental impacts (visual and noise).

The documents as submitted are insufficient to assess the potential visual impacts of marking towers and or conductors in order to comply with Federal Aviation Administration regulations or requirements in the vicinity of Sky Acres airport. Applicants shall provide sufficient information to assess the visual impacts of any painting and/or attaching strobe lights or other visual markers including large red or orange spheres to the poles or other features of the proposed transmission facility. The application identifies the aesthetic resources within three miles of the proposed ROW but has not prepared the evaluation of the impacts bases on methods identified in the NYSDEC Policy on Assessing and Mitigating Visual Impact (July 31, 2000). The Power line System-CADD (PLS CADD) and Power Line System –Pole (PLS-Pole) has been completed so the preliminary data on heights is available (Exhibit 3 page 3-12).

The documents as submitted are insufficient to assess the sound environment. Section 4.9 Noise provides estimates of the typical sound environment for suburban areas and includes an analysis of construction noise impacts. The section provides a table with estimated construction sound levels at distances of 50 and 1000 feet from clusters of equipment working in the ROW. The applicant shall provide supplemental information to including a data table providing estimated construction sound levels at distances at distances of 100, 200, 250, and 500 feet from clusters of construction equipment working in the ROW. The applicant shall provide sufficient information to assess the impacts of the proposed additional substation equipment - particularly the potential impacts on the residential structures to the southwest of the substation.

3. The documents do not comply with the requirements of 16 NYCRR 86.3(a) (2) (IV) to show the relationship of the proposed facility with respect to nearby, crossing or connecting ROWs or facilities of other utilities.

The location of the Iroquois gas transmission line is only shown on the cross section of the corridor and is not illustrated on the plan figures. The location of the Iroquois

pipeline should be added to Figure 2-4 Areas of Permanent Clearing or other appropriate figure. In addition, it will be acceptable to have a single set of clearing figures.

4. The application does not comply with the requirement of 16 NYCRR §88.2 to provide a description of the equipment to be installed at the substation and details of any terminal facility to be part of the proposed facility.

The applicant shall provide drawings illustrating how the facility will connect to the substation including any additional equipment required – redacted as appropriate.

5. The application does not comply with the requirements of 16 NYCRR 88.4 to provide the engineering justification for the proposed facility, showing its relation to the applicant's existing facilities and the interconnected network.

The applicant shall provide a System Reliability Impact Study (SRIS); a Class Year Study; and an EMF study – redacted as appropriate.

APPENDIX B: ADDITIONAL STAFF REQUESTS

While the following is not required to deem the documents complete, Staff has requested that Cricket Valley Energy please provide the additional information listed below:

1. The additional wildlife studies that the applicant has proposed shall be submitted upon completion.
2. Please provide aerial base maps that include topography to show the contours as it is related to the access roads.
3. In addition, the field wetland delineation and mapped resources showed on Figure 4.6-2 and Figure 4.6-3 should be combined into one figure in order to allow a better-estimated number of existing streams or wetlands crossing and where additional construction will be necessary to cross streams and wet lands for ROW access.
4. The applicant is proposing the use of helicopter to limit impacts on water resources, steep slopes and reducing the number of trips to structures sites by heavy equipment. On page 4-5, the applicant has identified 20 sites that may be accessed by helicopter to limit impacts on natural resources. To set concrete foundations or to drill micro piles requires heavy equipment access to the structure location. Helicopter based operations may not be feasible due to cost, lack of safe flight paths and equipment availability. This ROW has both a well-developed existing access road in the corridor and has multiple access points from municipal roads. In many locations, the aerial photography shows existing ROW access road crossing wetlands or streams, as described on page 4-4 and 4-5. These positive factors need to be fully consider against the practical problems of getting large heavy lift helicopters, complicated flight restriction, limited hours of operations and weather delays associated with helicopter operations Further evaluation of access issues, including conflicts with Iroquois pipeline stream, or wetland crossings has to assume that over the ground access will occur to reach the vast majority if not all of the tower sites, rather than assuming all these problems can be avoided by using helicopters.
5. Exhibit 6 Economics Effects of the Proposed Facility.
6. The report uses data from 2010 from the United States Department of Labor that identified 14,772 workers category of Natural Resources farming and construction employment. The New York State Department of Labor for last reporting period in 2013 for the Poughkeepsie area indicates 9,300 workers in the same employment group. Future submittal of this section or testimony regarding economics should use current data from New York State Department of Labor.

7. Exhibit 7 Comments.

The applicant should consider the comments below and determine whether additional information will be necessary to support waiver requests. Comments Exhibit 7.2 Town of Pleasant Valley Exhibit 7.2.2 Chapter 46 Driveways and Highway Work Permits. The substantive portion of this chapter should be followed and incorporated into the Stormwater Pollution Prevention Plan (SWPPP) (State Pollution Prevention System General Permit GP-0-10-001) and Environmental Management and Construction Plan (EM&CP) as it relates to construction entrances. A request for a waiver from the need to meet construction requirements of § 46.3 for paved aprons due to the temporary need for the entrances and the sight distances requirements due to the implementation of a maintenance and protection of traffic plan Maintenance and Protection of Traffic Plan(MPTP) must be identified in the waiver.

8. Public Involvement Plan (PIP)

While the PIP provides a good roadmap for outreach and education, it is lacking in details that would give a clearer picture about how the applicant will inform and engage the public about the proposed project. Staff recommends the following changes to provide more specific information about stakeholders, outreach activities, schedules, etc. Staff is aware that some of these details exist in other parts of the application, but believes that the PIP should serve as a stand-alone source for information regarding public involvement for this case.

Stakeholders (p. 3):

Add federal, state, and county elected officials and government agencies to elected leadership and policymaker list. The applicant should also determine if there are additional categories/groups of stakeholders potentially impacted by the project such as Native American tribes, transportation or communication networks (e.g. railway/airports, radio, etc.) Include a current list of identified stakeholders, arranged by category, as an appendix to the PIP.

The applicant should continue to update the list of stakeholders that will be contacted throughout the project as elected officials/policy makers may change and additional special interest groups and civic/community organizations may be identified during the different phases of the project. It is recommended that the applicant include the stakeholder list in an outreach section of the project Web site which can be updated as needed.

Public Involvement Methods (pp 5-7):

Along with the description of the tools and methods the applicant will use to communicate with the public, the PIP should include a report tracking the outreach performed to date (what was done, when/where, purpose, outcome, etc.) and the

anticipated activities. Where possible, the estimated dates or timeframes for upcoming outreach activities should be included. The report should be updated on a bi-monthly basis and provided to the Department Staff. Staff recommends including the tracking report on the project Web site to keep the public aware of communication efforts.

Distribution List (p. 5):

Please clarify how the distribution list will be expanded. It is unclear from the bulleted list whether the Web site accepts physical mailing addresses and whether the postcards/invitations have a place for emails. Also, the term “within the environs of the project” needs to be defined – does this mean adjacent homeowners only or properties some set distance from the proposed line.

Ombudsman (p. 6):

The PIP should clarify how contact information for the ombudsman will be provided to the public once someone is appointed to this position (e.g. distribution list, media advertisements, publications).

Meeting and Events (p. 6):

As stated above, any meetings between the applicant and the public or other stakeholders that have taken place or are planned for the future should be reflected in the bi-monthly tracking report. In addition to public information meetings, the Applicant should consider conducting a tour of the proposed route for interested stakeholders and adjacent landowners.

Advisory Group (p. 6):

The applicant should give more detail on how the Advisory Group will be established, such as who will be asked to join and what criteria will be used to make the selection if there is a large amount of interest.

Electronic Media (p. 6):

Again, considering the PIP is a stand-alone document, the url for the project specific Web site listed in the application should also be in this section of the PIP. Also, include an explanation of how the applicant intends to develop distribution lists for its proposed use of e-blasts including how and where the public can sign up to be included in such e-blasts. In addition, the applicant should provide a copy of the PIP on the Web site.

Print Media (p. 7):

Provide a schedule for the development of the project brochure including whether it will be updated or issued on a routine basis (e.g. monthly, quarterly), or as a project milestone is reached. Please clarify the applicant’s intended definition of “project area” as used in relation to the PIP and indicate the intended recipients of the project newsletter within the project area. The application and related technical documents

should be added to the list of print media contained in the PIP. In addition to the items noted in the PIP, the applicant should consider the development of a comment card for distribution at the project office and public events. A copy of all print media should be accessible from the project Web site.

Media Relations (p. 7):

The media contacts identified for the database should be included in the Appendix with the list of stakeholders.

Additional Items for Inclusion in PIP:

Intervenor Funding:

Please add a section to the PIP and the outreach section of the project Web site regarding intervenor funding which describes the purpose of the funds, the amount that will be available and the process for applying for the funds.

Document Repositories:

Please include a list of facilities that have been identified as repositories for project documents.