

**Town of Freedom  
Regular Board Meeting Minutes  
January 23, 2023**

**Board Members Present: Josh Aarum, Josh Cutler, R. Nick Morgan  
& Supervisor Dustin Bliss**

**Absent: John Hill**

**Other Officials Present: Planning Board Member Lyle Morgan  
& Grievance Board Member Randy Lester**

**Others: 8**

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Meeting called to order at 7:00 pm by Supervisor Dustin Bliss.

**I. PLEDGE TO THE FLAG: Led by Supervisor Dustin Bliss**

**II. REVIEW OF MINUTES:**

A. Town Board Meeting –Organizational Meeting – January 7, 2023

A motion was made by Dustin Bliss to accept the Meeting Minutes as submitted. Seconded by Josh Aarum.

Roll Call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan, Supervisor Dustin Bliss

**III. TOWN OF FREEDOM**

**RESOLUTION # 1-2023**

**January 23, 2023**

**A resolution authorizing the Records Management Officer to dispose of certain records.**

**Whereas:**

The State of New York Education Department has established a Disposition Schedule for Archives Records Retention identified as Schedule MU-1, which is a guideline for the disposal of certain records, and

**Whereas:**

Said Schedule MU-1 identifies the following records of the Town of Freedom as being disposable;

1. Agendas, Notes, sign in sheets from the years 2018-2019
2. Monthly Reports for the Town Clerk, Building inspector, Supervisor, Dog Control, Planning Board, Senior Citizens, Highway, Marriage Licenses, Cattaraugus County Transfer Station Ticket, Clerk to Supervisor, and Assessor from the years 2014-2015
3. General and Highway Vouchers for the years 2014-2015
4. Town Clerk/Tax Collector – Transaction Record Books 2002-2012
5. Town Clerk/Tax Collector – Banking 2015
6. Supervisors – Banking 2014-2015
7. Handicap – Application for Parking Permits 2011-2012

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8. Final Assessment Rolls 2009-2012
9. Tentative Assessment Rolls 2014-2017

**Whereas:**

The Records Management Officer of the Town of Freedom has identified the aforementioned documents to be available for disposal

**Be it Resolved that:**

The Town Board of the Town of Freedom does hereby authorize the Records Management Officer to dispose of the previously identified records in accordance with accepted practices.

Motion by: Dustin Bliss. Seconded by Josh Aarum

**Roll call:**

Josh Aarum: Aye

Josh Cutler: Aye

John Hill: Absent

R. Nick Morgan: Aye

Supervisor, Dustin Bliss: Aye

Clerk:  Date: 01/23/2023

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**IV.**

**TOWN OF FREEDOM**

**Resolution #2**

**January 23, 2023**

Resolution Requesting the Cattaraugus County Legislature and the Cattaraugus County Industrial Development Agency (the "IDA") to Support a Payment in Lieu of Taxes ("PILOT") for the Alle-Catt Wind Energy Project to Ensure Adequate Financial Compensation for the Host Communities

WHEREAS, in 2018, Alle-Catt Wind Energy LLC ("ACWE") applied to the New York State Board on Electric Generation Siting and the Environment (the "Siting Board") for a Certificate of Environmental Compatibility and Public Need pursuant to Article 10 of the New York Public Service Law for the construction and operation of a 340 megawatt wind-powered electric generation facility located in the Towns of Centerville and Rushford in Allegany County, the Towns of Farmersville and Freedom (the "Town") in Cattaraugus County, and the Town of Arcade in Wyoming County (the "Wind Project").

WHEREAS, in 2019, the Town Board of the Town of Freedom (the "Town Board"), agreed to and adopted Host Community Agreements (the "HCAs") with ACWE, to ensure that the

# **Town of Freedom**

## **Regular Board Meeting Minutes**

### **January 23, 2023**

Town and its residents were compensated for the impacts of the Wind Project, as well as for ACWE's use of the Town's roads and infrastructure to construct the Wind Project.

WHEREAS, the projected total compensation under the HCAs for the Town is several millions of dollars, paid over a period of 20 years.

WHEREAS, the HCAs contemplate ACWE applying for and obtaining a PILOT from the IDA and set the compensation for the Town based on the size of the approved PILOT.

WHEREAS, the Town Board recognizes that many of the Town's residents, including the Board Members themselves, have been either opposed to or concerned about the Wind Project or certain aspects of it, or about the policy of New York State to overrule local communities, or both.

WHEREAS, members of the County Legislature shared these concerns when, in August of 2018, they adopted Resolution/Act No. 368-2018, which requested that the IDA not approve a PILOT for the Wind Project.

WHEREAS, in June of 2020, the Siting Board granted ACWE's application for the Certificate.

WHEREAS, the Town of Farmersville and a group of local citizens filed lawsuits challenging the Siting Board decision to award the Certificate.

WHEREAS, in late 2021, the New York State Supreme Court, Appellate Division, Fourth Department denied and dismissed these lawsuits and upheld the Siting Board's decision to award ACWE a Certificate, meaning the most viable legal challenges against the Wind Project have now concluded.

WHEREAS, the Wind Project is now poised to move forward, with construction expected to begin in 2023.

WHEREAS, the Town understands that ACWE intends to move forward with the Wind Project regardless of whether a PILOT is approved.

WHEREAS, if the IDA does not approve a PILOT, ACWE has the right to terminate the HCAs, including the annual payments, as ACWE will instead be paying taxes on the Wind Project.

WHEREAS, the Town Board recognizes that significant portions of these taxes will not go directly to the host community Towns, whose residents will be most impacted by the Wind Project.

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WHEREAS, in the absence of a PILOT, the Town and their residents will stand to lose several millions of dollars in annual payments under the HCAs, which would not be equitable, as a host community Town will be most directly impacted by the Wind Project.

WHEREAS, the Town Board members, regardless of their personal feelings or concerns about the Wind Project (or the State's policy), cannot in good conscience allow their communities to lose these annual payments under the HCAs while the Wind Project moves forward, nor can they support a greater share of revenues being diverted away from a host community Town, which is the end result absent an appropriate PILOT.

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Freedom that:

1. The Town Board respectfully request that the County Legislature and IDA support a PILOT for the Wind Project, particularly a PILOT that would allow for ACWE to make the largest possible annual host-community payments to the Town whose residents must endure the most significant impacts of the Wind Project. Specifically, the Town Board would request the PILOT agreement be for at least 20 years and for an amount at \$5,000 per megawatt (MW) or less of installed capacity.
  2. The Town Board believes that support for a PILOT is not the same thing as support for the Wind Project. Instead, support for a PILOT simply recognizes that the Wind Project is now moving forward, and that it is in the best interests of the host community—and their elected representatives in Little Valley—to maximize the financial benefits for the affected Town and its residents. At the time the County Legislature adopted Resolution/Act No. 368-2018, it was far from clear whether the Wind Project would ever move forward. The situation has changed considerably since then.
  3. This resolution is effective immediately.
- PASSED AND ADOPTED by the Town of FREEDOM Town Board on this \_\_\_\_ day of \_\_\_\_\_, 2023

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

Aarum:  
Hill:  
Morgan:  
Bliss:

Dustin Bliss made a motion to table Resolution #2 to the next Town Board Meeting. Seconded by R. Nick Morgan.

Roll Call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

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**V. At the January 7, 2023 Reorganization Meeting a motion was made by Supervisor Dustin Bliss and he abstained from the vote, the motion needs to be made by and seconded by other members of the board because this involved the Supervisor Books:**

**Audit Declaration and Petty Cash and Annual Audit for:**

- A. TAX COLLECTOR - \$200.00-Bank Statements Annual Report**
- B. TOWN CLERK - \$100.00 -Minute Book- Bank Statements-Annual Report**
- C. JUSTICE - \$150.00**
- D. HIGHWAY SUPT. - \$200.00**
- E. BUILDING INSPECTOR – 2022 printout of all permits**
- F. SUPERVISOR - \$0 petty cash and Supervisor's Books**

**A motion was made by Josh Aarum to accept the annual audit of the records as presented. Motion was seconded by Josh Cutler.**

**Roll call: Aye-3 Josh Aarum, Josh Cutler, R. Nick Morgan,  
Abstain-1 Supervisor Dustin Bliss**

**VI. Agreement for the Expenditure of Highway Moneys: (Signed by Board Members)**

This was not available at the January 7, 2023 Reorganization meeting and the board did not approve this item under Assignments. All Board members must sign this before leaving this evening.

A motion was made by Dustin Bliss to approve expenditure of Highway Moneys.  
Seconded by R. Nick Morgan.

Roll Call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

**VII. OLD BUSINESS:**

**A. REMINDER: Change of date for February Meeting will be February 13, 2023:**

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**VII. NEW BUSINESS:**

- A. Town office sign at the end of Eagle Street: Supervisor Dustin Bliss stated to get a new one.

**VIII. Public Comments:**

**Susan Lester:** See attached

**Denise Willard:** See attached

**Marsha North:** See attached

**IX. REPORTS & COMMUNICATIONS:**

- A. Assessors –Report Submitted
- B. Building Committee –
- C. Building Inspector – Report Submitted
- D. Highway Superintendent – Report Submitted
- E. Clerk/Collector – Report Submitted
- F. Constable –
- G. DCO –
- H. Highway Committee –
- I. Justices –
- J. Parks & Recreation –
- K. Planning Board –
- L. Supervisor –Report Submitted at Reorganization.
- M. Other Town Officials –

A motion to accept the reports & communications as submitted was made by Dustin Bliss. Seconded by R Nick Morgan.

Roll call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan, & Supervisor Dustin Bliss

**X. APPROVAL OF VOUCHERS:**

General #6 to # 40, Amt. \$27,874.86, Yrly Amt.\$60,514.43.

Motion made by Dustin Bliss accept the General vouchers as submitted. Seconded by Josh Aarum

Roll call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

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Highway #4 to #15, Amt.\$7,446.56, Yrly Amt.\$25,765.16.

Motion made by Dustin Bliss to accept the Highway vouchers as submitted.  
Seconded by R. Nick Morgan.

Roll call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

Lighting District #1 to #1, Amt. \$347.27 Yrly Amt.\$347.27.

Motion made by Dustin Bliss to accept the Lighting District voucher as submitted.  
Seconded by R. Nick Morgan.

Roll Call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

Delevan Fire District #1 to #1, Amt.\$12,500.00 Yrly Amt. 12,500.00.

Motion made by Dustin Bliss to accept the Delevan Fire District voucher as submitted. Seconded by R. Nick Morgan.

Roll Call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

Farmersville Fire District #1 to #1,Amt. \$27,775.00, Yrly Amt. \$27,775.00.

Motion made by Dustin Bliss to accept the Farmersville Fire District voucher as submitted. Seconded by R. Nick Morgan.

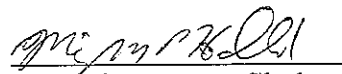
Roll Call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

**XI. ADJOURNMENT:**

Dustin Bliss made the motion to adjourn the meeting at 7:19 p. m. Seconded by R. Nick Morgan.

Roll call: Aye-4 Josh Aarum, Josh Cutler, R. Nick Morgan,  
& Supervisor Dustin Bliss

Respectfully Submitted by

  
\_\_\_\_\_  
Freedom Town Clerk  
1/25/2023

Town Board meeting Jan 23rd 2023

Dear Gentlemen~ Good evening. introduced ~Susan Lester

I come before the board to represent the Freedom Seniors & friends and speak to the Board on their behalf. A discussion was had at the Jan. Seniors meeting in regards to the news of our town being approached to participate with helping fund & to accomodate an outside groups sport. At the Dec. Town Board meeting it was noted and presented to the board a question of our Towns willingness to update one of Freedoms Ball fields to this said groups requirements. Upon the Seniors discussing the future of this endeavor, the Freedom Seniors want it to be noted and also recognized that they are a local Group & 2 years ago were abruptly terminated by the Town Board from any Town contributions & budget that they had been included in for over 30 years. The Freedom seniors continueously reach out to those in town over 55 with Town information, agreed participation, relationships, support, companionship, entertainment, informative programs, & monthly gatherings. Seniors contribute with commitment to local food pantrys, & nursing homes. The Seniors involvement benefits the town and is recognized in our local paper, with articles, announcements, pictures, participation and also shared to members on FB. The many thank you cards, & correspondance received from past members are proof that this is a valued outreach to our growing elderly Community. The Freedom demographics will be submitted and reflects the seniors 60-85 exceed the youth. Understand please the need to have a town grow and prosper you need all.

In a recent Town article it was noted that there is a lack of individual involvement in regards to Town projects , committees, etc. First, there must be some Town Board encouragement & involvement and motivation to move folks to contribute time and effort. Some projects seem to be talked about, perhaps started and then do not go any further. No need to discourage the few folks who show interest and are willing to get involved. With that said please be advised that Seniors have been interested & involved and it is with regrets their willingness got brushed aside. Many Seniors own homes & property, grew up here, attended school, have



families & friends in Freedom & We the Freedom Seniors ask the Board to reconsider if the funds are made possible for the ball field that they revisit the budget, and re~instate a yearly funding once again so the Freedom Seniors group can grow & continue to consider future town committees, commitments, town projects and future involvement.

What does anyone think of a Boccee Court??? The Freedom Seniors & friends welcome folks over 55 to participate and join our monthly 12pm meetings, 1st weds of each month. Contact on FB if interested.

Question I have personally~ who does Freedom have looking into grants?

Respectfully,

Susan Lester

# Freedom Demographics (American Community Survey)

AGE	2010	2017	2018
Under 5	71	235	195
5-9	175	129	113
10-14	165	181	214
15-19	<u>143</u>	<u>65</u>	<u>52</u>
	554	610 + 56	574 - 54
20-24	149	80	67
25-34	233	251	243
35-44	307	295	296
45-54	377	293	296
55-59	<u>165</u>	<u>213</u>	<u>20</u>
	1231	1132	1027 - 105
60-64	210	100	146
65-74	191	301	306
75-84	152	129	165
85+	<u>18</u>	<u>47</u>	<u>58</u>
	571	577 + 6	675 + 98
TOTAL	<u>2356</u>	<u>2319</u> - 37	<u>2276</u> - 42

INCOME PER household  
 median (middle) 51,324 51,571  
 mean (Average) 54,868 58,810

Number of household  
 946 887 - 59

1/23/2023

Attach to Susan Lester

Denise Willard  
Town Board Meeting 1/23/2023

Attention Residents,

I would like residents to be aware of the completely insufficient "Issues Statement" attorney Peter Sorgi submitted to the NYS Siting Board for the Alle-Catt Wind Turbine Project Article VII transmission line on behalf of the Towns of Freedom and Yorkshire. It pales in comparison to the excellent, well thought out and robust Issues Statement attorney Ben Wisniewski submitted on behalf of Cattaraugus County, in that same proceeding.

Peter Sorgi completely neglected to make a case as to why the transmission lines should be placed underground. He simply paid lip service to the issue by stating, "Importantly, the Applicant should address the feasibility of as follows:"

- a. underground transmission facilities;
- b. Reduction of height;
- c. Style of Transmission Lines, if above-ground; and
- d. Visual screening.

Who is the Alle-Catt Wind Turbine Project Applicant? Invenergy. This Company is slated to make millions in government subsidies on this project. To trust a company whose monetary interests lie in their own favor to give an unbiased feasibility report is the height of malpractice for a lawyer representing the Towns who should have the taxpayer's interest at heart. Peter Sorgi completely placed the ball in Invenergy's court. It was attorney Sorgi's job to advocate to place those horrific lines underground. Yet, all he did was ask Invenergy to tell us how "feasible" it is to place the transmission lines underground. Any logical thinking person knows what the answer is going to be. The 3 remaining visual impacts attorney Sorgi wants Invenergy to review all pertain to above ground transmission lines. This should not be about what Invenergy wants to do, it should have been about protections for the Towns of Freedom and Yorkshire residents.

Peter Sorgi didn't even try to ask for the transmission line to go underground. What did the town board expect when Randy and Dustin, who have conflicts of interest, were the ones to heavily advocate for Sorgi? Supervisor, Dustin Bliss has the Article VII transmission line running across his property. One would think that would have been a HUGE red flag.

Attorney Sorgi, however, did a fine job submitting a 38 page intervenor funds request to get himself paid \$20,000 of Invenergy's money in legal fees (which doesn't include the \$30,000 Sorgi requested for engineering fees, but failed to mention what the engineer would be doing to earn those fees), yet he could only manage 2 pages for the Issues Statement, that delineated only 3 issues and in which he did not advocate for anything meaningful to protect the Freedom and Yorkshire residents.

I personally find it strange that Sorgi represents two Towns against renewable energy companies and in the Towns of Machias and Sardinia, he represents renewable energy companies. If he were really working in the best interests of the Town's taxpayers, do you think that renewable companies would be lining up to hire him? I'd like to know how that isn't considered double dipping and a huge conflict of interest.

Meanwhile, attorney Wisniewski extensively addressed the visual impacts and then directly advocated that Invenergy be required to place the Alle-Catt transmission line underground. He set forth 7 detailed and meaningful issues to protect the residents.

It took 9 months before Attorney Sorgi did any significant legal work for Article VII, but Town Board members Randy Lester and Dustin Bliss insisted the Board had to vote for Sorgi to represent the Town in the Article VII proceeding immediately that night at the Town Board meeting. One would hope that would have been another red flag, particularly since Dustin Bliss and Randy Lester are both listed as having qualified disclosable financial leaseholder interests in Invenergy's Alle-Catt Wind Turbine Project. It is indeed sad that the Town Board does not seek factual information from neutral parties such as the County Tax Office, County IDA, County Clerk's Office, County Board of Elections, etc. I wonder how many times the Town Board members have gone directly to the DPS site where there are submissions about the Transmission Lines or wind turbines and compare those submissions to County records to see if Invenergy's information is accurate.

Making decisions based on false information, half truths and outright lies from leaseholders who stand to have personal financial gain and from a corporation due to make tens of millions of dollars is reckless, negligent and downright dangerous. Towns of Freedom & Yorkshire residents deserve better.

# Sorgi's Issues Statement

3. Decommissioning Plan. A detailed Decommissioning Plan which fully protects the Towns must be submitted.

**Conclusion**

The Towns look forward to working with the Applicant to address the aforesaid issues and issues that may arise, preferably by settlement, but if an acceptable settlement of these issues cannot be reached, the Towns reserve its rights to avail themselves of any and all legal recourse.

Dated: May 13, 2022  
East Aurora, New York

HOPKINS SORGI & MCCARTHY PLLC

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Peter J. Sorgi, Esq.  
*Attorneys for Town of Freedom and Town of Yorkshire*  
726 Main Street, Suite B  
East Aurora, New York 14052  
Telephone: 716.805.7191  
E-Mail: psorgi@hsmlegal.com

c. Style of Transmission Lines, if above-ground; and

d. Visual screening.

2. Effect on Communications. As the Towns are rural communities, the Project's effect on communications is extremely important from both public safety and convenience perspectives. While the Application provides a relatively detailed plan to allow for clear receipt and management of response to complaints during construction activity and operation of the completed transmission facilities, more important is for the Towns and its residents and businesses to understand what anticipated issues may arise that could negatively impact communications which would result in the need for complaints to be made as well as any and all mitigative measures to reduce or eliminate the need for a resident of the Towns to make such a complaint. This is especially important because the Complaint Process may be cumbersome for those negatively impacted and it seems that causation of the negative impact, if disputed by the Applicant, would be difficult to prove and could easily become a time-consuming and financial burden for those negatively impacted. For instance, if a Complaint is disputed by the Applicant and ultimately it was found that the negatively impacted party was correct, that party should be able to recoup its financial loss and be compensated for their time and inconvenience. Accordingly, there needs to be a greater understanding of any potential negative impacts and those impacts must be mitigated to the maximum extent possible in the Project design to avoid to the maximum extent possible the need for someone to avail themselves of the complaint process.

## Introduction

The Town of Freedom and Town of Yorkshire (collectively, the "Towns") are the two host communities for the transmission lines for the proposed Alle-Catt Wind Energy Project (the "Project"). Accordingly, the Towns are directly impacted by the Project and hereby submits its list of Proposed Article VII Issues and reserves the right to amend this list should further information be presented or identified.

## Article VII Issues

1. Visual Impacts. As noted in the Visual Impact Assessment ("VIA") prepared by Environmental Design & Research dated February 2021 (see page 10, Table 2) there are a total of 58 Visually Sensitive Resources ("VSRs") within the project Visual Study Area (VSA) including 15 Properties of Historic Significance [6 NYCRR 617.4 (b)(9)], 26 Public Lands and Recreational Resources, and 17 High-Use Public Areas. In addition to the various mitigation measures discussed in the VIA, many of which appear to have limited feasibility or effectiveness, the Towns of Freedom and Yorkshire request a comprehensive discussion of potential offset mitigation measures or projects, as noted in the VIA (5.0 Conclusions, page 33): "Projects that provide enhanced public access, recreational opportunities or aesthetic quality at VSRs within the study area could be proposed as offset mitigation for Project-related visual impacts." Importantly, the Applicant should address the feasibility of as follows:
  - a. underground transmission facilities;
  - b. Reduction of height;



**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

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**Case No. 21-T-0059**

Application of Alle-Catt Wind Energy LLC  
for a Certificate of Environmental Compatibility  
and Public Need Pursuant to Article BII of the  
Public Service Law

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**TOWN OF FREEDOM AND TOWN OF YORKSHIRE**

**PROPOSED ARTICLE VII ISSUES**

Dated: May 13, 2022  
East Aurora, New York

HOPKINS SORGI & MCCARTHY PLLC  
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*Attorneys for Town of Freedom and Town of Yorkshire*  
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Telephone: 716.805.7191  
E-Mail: psorgi@hsmlegal.com

# Wisniewski's Issues Statement

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**STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION**

**Application of Alle-Catt Wind Energy LLC  
for a Certificate of Environmental Compatibility  
and Public Need Pursuant to Article VII of the  
Public Service Law**

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**Case No. 21-T-0059**

**CATTARAUGUS COUNTY**

**STATEMENT OF ISSUES FOR SETTLEMENT OR ADJUDICATION**

Dated: May 13, 2022  
Webster, New York

**WISNIEWSKI LAW PLLC**  
Benjamin E. Wisniewski, Esq.  
*Attorney for Cattaraugus County*  
66 East Main Street  
Webster, New York 14580  
Tel. (585) 364-1764  
bew@bowlawfirm.com

## **INTRODUCITON**

In early 2021 Alle-Catt Wind Energy LLC filed an application pursuant to Article VII of the Public Service Law for authority to construct a 345 kV electric transmission line in the Towns of Freedom and Yorkshire, Cattaraugus County, New York. Cattaraugus County was subsequently awarded party status, and intervenor funds, to participate in the proceeding. The County now respectfully submits this statement of issues for settlement or potential adjudication as required by the Ruling dated April 13, 2022 (DMM Item No. 27).

The County's goal in participating in this proceeding is to avoid or minimize any adverse impacts on the County, the local environment, and residents. The County is open to addressing its concerns via settlement negotiation but is prepared to seek adjudication if necessary. In reviewing application documents available to date, the County and its retained experts have identified the issues described in detail below. The County reserves the right to address additional relevant issues identified during the course of the Article VII proceeding. The County also reserves the right to participate in the resolution or adjudication of issues raised by other parties.

## **ISSUES**

### **I. Issue 1: Whether the visual impacts of the facility have been adequately studied and quantified—PSL 126(1)(b).**

The Visual Impact Assessment (VIA) prepared by EDR on behalf of Invenergy LLC does not sufficiently quantify visual impacts. A robust VIA is essential to determining whether, and where, visual impact avoidance or mitigation is required. Transmission line relocation,

undergrounding, visual screening, or selection of lower impact facility components can only be meaningfully considered in the context of fully quantified visual impacts.

Upon review of the VIA, and after a site visit performed in the Spring of 2021, the County's visual impact consultant T.J. Boyle Associates has identified multiple issues concerning the sufficiency of the Applicant's VIA. Sub-issues include, but are not limited to:

1. Whether EDR adequately determined the sensitivity to visual change of the three viewer/user groups identified (local residents, through-travelers/commuter, and tourist/recreational users), and whether the sensitivities of local Amish communities are captured by the three groups. (Section 3.4 of VIA)
2. Whether the VIA is based on listed visual impact methodologies, as alleged by EDR, or whether EDR's methodology fails to meaningfully incorporate the cited procedures. (Section 4.0 of VIA)
3. Whether the "representative viewpoints" selected by EDR are representative in any statistical or scientific sense. (Section 4.3 of the VIA)
4. Whether a two-member rating panel is adequate to assess visual impact, or whether additional rating members should have been required. (Section 4.3 of the VIA)
5. Whether the impact rating methodology sufficiently accounts for viewer context, and whether impacts of the transmission lines and wind turbines were rated independently. (Section 4.3 of the VIA)
6. Whether the cumulative impact of wind turbines and transmission lines is evaluated. (Section 4.3.3 of the VIA)

7. Whether impacts on specific viewpoints, including but not limited to viewpoints 8, 9, 38, 51, 58, 65, and 73, were accurately rated. A field visit by representatives of T.J. Boyle indicated that not all visible structures, particularly closer ones, are included in EDR's simulations. For example, it was obvious in the field that proposed structures would be immediately adjacent to the roadway, but these were not represented in any simulations. In addition, some simulations were taken immediately next to a proposed structure that was not included in the view (e.g., Viewpoint 38, Viewpoint 65).
8. Whether visual impacts on cultural and historic resources have been fully quantified. T.J. Boyle has not completed its review of this issue.
9. Whether land-uses have changed since the VIA was conducted in June and July of 2018 and 2019, and whether the VIA should be updated. It is possible that land use changes have occurred in the Project Area during the past four years, and therefore consideration should be given to updating the VIA. At a minimum, EDR personnel should field-verify that no noticeable land use conditions have changed at the 80 representative viewpoints.

The above issues must be addressed before the issue of adequate avoidance or mitigation is considered.

**II. Issue 2: Whether the facility represents the minimum adverse visual impacts—PSL 126(1)(c).**

Even if the VIA adequately assesses visual impact, which it does not, the Applicant has failed to implement measures that would mitigate or avoid visual impacts. Cattaraugus County

requests the Applicant and Public Service Commission consider additional mitigation or avoidance measures, including but not limited to undergrounding all or some of the transmission line, relocating the transmission line to lower visual impact areas, using shorter or otherwise less visually obtrusive towers, or identifying areas that would benefit from visual screening near an adversely impacted viewpoint.

As an example of some potential visual impact mitigation measures, T.J. Boyle Associates provides the following commentary:

The proposed pole heights could be reduced by utilizing lower H-Frame structures. An example is the VELCO Southern Loop Project in Vermont. Several proposed structures are significantly higher than typical 345kV structures, including one single-pole structure at a roadway intersection proposed at 180 feet tall, and an adjacent structure proposed at 195 feet tall (see structures 6/3 and 6/4). There is no information on how these structures would appear, or importantly how wide they would be at the base of the structure. Neither of these two example structures were represented within the photographic simulations reviewed by the rating panel.

The corridor alignment does not appear to have been planned using visual impacts as a determining factor. For example, at structures 5/4, 6/1 and 6/2, the proposed ROW is located partway up a hillside rather than at the base of the hill or adjacent to a nearby transmission line, resulting in very tall structures that project into the skyline, and a ROW clearing that will also be unnecessarily visible.

While using landscape mitigation to reduce impacts of transmission lines may seem futile, the most effective way to screen transmission lines is from near the point of visibility (or by rerouting the line out of sensitive or highly visible locations; intentionally rerouting a corridor is also considered mitigation). For example, at an active cemetery near the center of the Project, headstones are oriented so that epitaphs are observed while visitors are facing the general direction of the project. Several nearby structures would be clearly visible during visitation and burial events (structures 4/1, 4/2, 4/3, 4/4 and potentially 4/5). This potential impact to the cemetery was not depicted in any of the simulations. Though the project may not be easily screened by locating vegetation within or adjacent to the ROW, the cemetery could potentially benefit from screening closer to the cemetery

## The Old Bait and Switch

Invenergy

~~Alle-Catt~~ is amending the wind project from 116 turbines to 84 per the Arcade Penny Saver and never mentioned what turbines are being used.

On the NY Independent System Operator Site -

manages the state power grid last updated 11/4/2022 Alle-Catt will be using 81 Vesta V150-4.2 MW turbines with a maximum output of 340.2 MW

- Turbine height is at least 790 ft tall well over the 600 ft height
- With sound level of 105 DB(A)'s twice as loud as should be
- Will produce more hours of flicker and much farther away
- need to dig further down to erect these turbines
- How about requesting that Invenergy provide written documentation of which turbine models they will be using in our Town in a legally binding document