

OCTOBER SOLAR UPDATE

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October 8, 2020

I'd like to begin with some good news, the results from the September 17th conference call hearing on Intervenor funding.

As I've previously reported, the procedures currently being followed by Hecate as it attempts to bypass Copake's Zoning Laws and site its 500-acre, 60 megawatt industrial-size solar facility in Craryville, are laid out in Article 10 of the NYS Public Service Law.

Article 10 requires a developer to provide "Intervenor Funds" to help interested parties defray the considerable expenses they incur as they evaluate a developer's proposal. In the "pre-application" phase of the process, the law requires Hecate to provide \$350 for each megawatt of capacity it intends to build. 60 megawatts times \$350 equals \$21,000.

At the conclusion of the hearing, at which Copake was ably represented by Zoghlin Group partner Bridget O'Toole, the administrative judges who presided ruled that Copake would receive the full \$21,000. These Intervenor Funds will help the Town pay for the services of our solar-attorney and environmental-engineering firms up to the filing by Hecate of an application for the Shepherd's Run project with the State Siting Board. Thereafter, to help defray expenses during the year-long application phase, Article 10 requires Hecate to provide an additional \$1000 per megawatt of capacity, or \$60,000, in Intervenor Funds. If and when Hecate *does* file an application, we will seek these funds as well.

That's it for the good news.

Several months ago, we submitted a Freedom of Information Law request to NYSERDA, the New York State Energy Research and Development Authority, for information about its agreement to provide Hecate with substantial financial incentives to support siting an industrial-size solar facility in our Town. We were looking to learn information that Hecate has been unwilling to share, including: where, within the 900-acre "Project Area" would Hecate place the facility's components? who are the

landowners who have agreed to lease their properties to Hecate? how much has Hecate agreed to pay them? what will be the cost of all the equipment — the 200,000 solar panels, inverters, connections to transmission lines, battery storage — that is, what will be the increased value of the leased land that Copake, and, I might add, the Taconic Hills Central School District, intend to fully tax?

Not surprisingly, Hecate claimed to NYSERDA that all of the information Copake was seeking was “confidential,” that “dissemination of this information would cause substantial economic harm to Hecate”, placing it at a competitive disadvantage because (quoting from NYERDA’s FOIL determination letter) “no party to a negotiation over price would willingly disclose how much it is willing to spend”.

It is important to understand that it is NYSERDA’s mission to incentivize developers to build very, very large, industrial-size renewable energy facilities wherever the developers can acquire rights to land reasonably near a utility’s transmission lines. So, it should come as no surprise when I tell you that NYSERDA’s decision was to accept Hecate’s confidentiality claims and shield Hecate from disclosing the critical information we sought. In fact, the only information NYSERDA declared was not “confidential” was information about the proposal already posted on NYSERDA’s website.

Speaking of which, here’s what we do know: NYSERDA has agreed to pay Hecate (and its successors — we know Hecate does not intend to actually operate the facility, if it gets built) almost \$20 for each of the more than 105,000 megawatt hours of electricity Hecate expects to produce per year. So Hecate expects to receive “renewable energy credits” worth almost \$2,100,000 per year, for 20 years. Put another way, NYSERDA would be providing credits worth almost \$42 million dollars to actively promote Hecate’s spoiling of Copake’s beautiful, cherished rural environment.

Incidentally, here’s something else we don’t know: what Power Purchase Agreements have Hecate entered into with the utility, NYSEG, which would buy the electricity generated by an industrial-size solar facility? That is, how much does Hecate (or its successor) expect to profit from the electricity that would produced by Shepherd’s Run?

On Copake's behalf, both Zoghlin's Ben Wisniewski and Kathy Spencer, from LaBella Associates, the environmental engineers, filed comments with the Siting Board on the Preliminary Scoping Statement filed by Hecate in August. In the PSS, Hecate was required to lay out the types of impact-evaluation studies it would conduct. Hecate responded to Copake's comments, and the responses did not encourage us to believe that Hecate intends to be transparent or willing to accept constructive suggestions. Here's an example: a consequence of great concern to Copake residents is the facility's likely impact on its neighbors' views and property values. Our comment reads, "Because some visual impacts may not be identified until after a project is completed, the Applicant should propose a method to measure visual impacts after construction is completed...The post construction monitoring should also allow for identification of additional areas where new or additional visual mitigation is required. A letter of credit or similar mechanism should be available to fund the cost of additional mitigation measures." Hecate's complete response? "Post-construction visual monitoring is not required under Article 10 regulations."

What's next? On October 5th, Hecate filed with the Siting Board a "Notice of Commencement of Stipulation Process". This process is supposed to be confidential negotiations about the scope and methodology of the various studies Hecate said in its Scoping Statement that it intends to perform to facilitate assessments of the impacts of its proposed facility on, among other things, the environment, water, wildlife, agriculture, and view sheds. Ben Wisniewski and Kathy Spencer from LaBella Associates will participate on Copake's behalf, helping to promote studies that are designed and implemented to adequately assess the proposal's likely impacts.

Finally, a reminder that there will be a town hall meeting, via Zoom, at 7 p.m. on October 28th, to provide additional information, hear your comments, and respond to questions.

Thank you.