Last month we reported that Chicago-based Hecate Energy said it was again reworking its proposal for the project it calls “Shepherd’s Run”, which in its most recent iteration had been a 60 Megawatt capacity, 255-acre, industrial-size power plant sited primarily along County Route 7, south of Route 23 in Craryville. We had hoped that the new proposal would address the Town’s two principal objections: (1) the project is too big, and (2) the proposed sites are in exactly the wrong places — mostly adjacent to the county road that leads into the hamlet of Copake and up to Copake Lake. Furthermore, it would place vast arrays of solar panels directly across the street from more than a dozen homes.

Unfortunately Hecate’s latest version fails on both counts: (1) size: the newest proposal is 245 acres, a less-than 4% reduction of 10 acres; and (2) siting: all of the solar panels across from the houses remain exactly where they were, and the southern-most arrays have been moved further north, near Birch Hill Road.

Meanwhile, there have been several developments in the lawsuit brought against New York State’s Office of Renewable Energy Siting (ORES) — not against Hecate — by Copake, as lead petitioner, together with five other upstate towns, and seven non-profit avian interest groups and community grass-roots organizations. In this Article 78 proceeding, petitioners are seeking to have ORES’ regulations invalidated, to obtain a preliminary injunction preventing ORES from acting on the 94-c siting applications before it or accepting new applications, and to return filed applications back to the Article 10 siting process.

Petitioners are arguing that the ORES regulations should be invalidated for several reasons: failure to comply with SEQRA (the State Environmental Quality Review Act); violations of the Home Rule Provisions of Article 9 of the State Constitution because the regs don’t set standards for when ORES may override
local laws, including Copake’s Zoning Law; and, failure to comply with SAPA (the State Administrative Procedure Act). Among other things, ORES ignored more than 5000 comments to the draft regulations and then passed them without making responsive, substantive changes.

So here’s what’s happened:

An organization called ACE-NY, the Alliance for Clean Energy — New York, has joined the lawsuit to help ORES argue against our position. This organization consists of environmental groups and energy companies. In fact, Hecate itself is a member of its Business Council. So is Tetra Tech, an energy industry consulting firm that was hired by ORES to write the very ORES regulations we are challenging!

Also., several organizations are seeking permission to file an amicus brief in support of ORES — including the Sierra Club, the Natural Resources Defense Council, and Scenic Hudson.

Finally, a court hearing scheduled for yesterday on petitioners’ request for a preliminary injunction, was postponed until September 21st. We will report on the decision when we receive it.

I’d like to make one more point: in their legal papers, neither ACE-NY nor the parties requesting to file an amicus brief, ever even mention Home Rule or the interests and concerns of Copake and the other petitioner-towns. They in effect argue that the petitioners don’t understand the existential threat of climate change and New York’s need to do something about it. Well, we DO get it. We’ve been saying for many months that we want to work with Hecate to develop a right-sized template for rural town solar projects, and that we will advocate for right-sized projects all around the State, so that New York can meet its ambitious renewable energy goals.
Our record is clear, but it is being ignored by Hecate and its allies because it contradicts the simplistic NIMBY narrative with which they’re attempting to tar rural New York towns.

Let me say it again: we’re ready to do our fair share. Work with us, New York! Work with us, Hecate!

Richard Wolf
Deputy Town Supervisor