

Solar Update  
December 2022

Last Friday, the NYS Attorney General's Office filed its response, on behalf of the Office of Renewable Energy Siting (ORES), to the petitioners' appeal in the lawsuit seeking to have ORES' regulations declared invalid and requiring that new regulations be promulgated in a manner consistent with State law. Also, an *amicus* or "friend of the court" brief was filed in support of ORES by the Natural Resources Defense Council, the Sierra Club, the New York League of Conservation Voters, and New Yorkers for Clean Power.

Copake is the lead petitioner in the lawsuit, which has been brought together with five other upstate, rural towns and seven non-profit organizations. It is petitioners' position that the regulations, written for ORES by an energy industry consultant which has Hecate as a client: were passed in violation of the State Environmental Quality Review Act, following a sham public comment process (in which more than 5000 comments failed to yield a single substantive change in the draft regulations); severely and unfairly restrict a town's ability to challenge a developer's application for a siting permit; and, violate Home Rule provisions of the State Constitution by allowing ORES to waive a town's Zoning Codes, Comprehensive Plans, and Farmland Protection Plans.

Petitioners' attorneys are reviewing the State and *amicus* briefs and preparing a response. The appeal will be argued before a panel of judges from the Third Judicial Department in Albany, perhaps as early as January, 2023.

As to Hecate's application for a permit to site the Shepherd's Run solar power plant in Craryville, we expect that Hecate will soon file with ORES amendments to its application in response to the deficiencies identified by ORES in the second "Notice of Incomplete Application" it issued on September 27th. Once Hecate submits its filing, ORES has 60 days to determine whether the siting application is "complete". If ORES is satisfied, it will issue a draft permit. If not, it could issue a third "Notice of Incomplete Application". Finally, as I've noted in prior updates, if ORES refuses to make a determination within 60 days, the application is automatically deemed complete, and Hecate would receive a draft siting permit.

Stay tuned.

Richard Wolf

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