

# Canisteo Wind Transmission Facility

Case No. 19-T-\_\_\_\_\_

Exhibit 8

**OTHER PENDING FILINGS**

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## EXHIBIT 8 – OTHER FILINGS

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## **OTHER PENDING FILINGS**

This Exhibit addresses the requirements of 16 NYCRR § 86.9 by identifying and describing other pending applications or filings, if any, of Canisteo Wind, LLC (the Applicant) or others related to the Transmission Facility that is the subject of this Application as filed with the New York State Public Service Commission (PSC) or other governmental departments or agencies (State or federal).

### **Other State Filings and Approvals**

#### ***New York State Board on Electric Generation and the Environment– Certificate of Environmental Compatibility and Public Need***

Article 10 of the New York State Public Service Law (PSL) requires that CWE receive a Certificate of Environmental Compatibility and Public Need (CECPN) from the New York State Board on Electric Generation Siting and the Environment in order to construct and operate the CWE Wind Farm because it qualifies as a major electric generating facility (a facility with a nameplate generating capacity of 25 megawatts [MW] or more). The Transmission Facility is needed to support the CWE Wind Farm. The Applicant submitted an Application to the Siting Board on November 5, 2018 for a CECPN pursuant to Article 10 to construct the 290.7 MW Canisteo Wind Farm. A decision on the application is pending.

#### ***New York State Public Service Commission – Certificate of Public Convenience and Necessity***

Under PSL § 68, no electric corporation shall begin construction of “electric plant” without first having obtained the permission and approval of the PSC. The Transmission Facility qualifies as “electric plant”. CWE will apply for a CPCN covering both the Wind Farm and the Transmission Facility in 2019.

#### ***New York State Public Service Commission – Section 401 Water Quality Certification***

The Applicant will require a Water Quality Certification (WQC) in accordance with Section 401 of the Clean Water Act (CWA) before certain other federal and State agencies can issue other permits and approvals required to construct the Transmission Facility. The Applicant is applying for a WQC concurrently with this application.

#### ***New York State Department of Environmental Conservation – SPDES Permit for Stormwater Discharges from Construction Activities***

Under the federal CWA as implemented by New York State under New York Environmental Conservation Law (ECL) Article 17, stormwater discharge(s) from construction activities that disturb one acre, or more, are required to be covered under the State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002) or its successor issued by NYSDEC. Because construction activities for the proposed Transmission Facility will result in soil disturbance exceeding the one-acre threshold, the Applicant will submit a Notice of Intent seeking coverage under the General Permit and will prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) identifying site-specific measures to minimize pollution associated with stormwater runoff. as State-regulated wetlands.

***New York State Office of Parks, Recreation, and Historic Preservation – New York State Historic Preservation Act***

The Applicant has initiated (and will continue) discussions with the New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP) to ensure compliance with Section 14.09 of the New York State Historic Preservation Act, as well as Section 106 of the National Historic Preservation Act. See Appendix 4b. The Applicant anticipates formal consultation under Section 106 to be initiated by the USACE following submission of the federal wetland permit application discussed in Section 8.1.1 below.

***8.0.7 New York State Department of Environmental Conservation (NYSDEC) – Permit for Flood Control Land Use, Environmental Conservation Law Article 16***

The Applicant has initiated discussions with NYSDEC to comply with ECL 16-0107 (6 NYCRR Part 501) which requires a Flood Control Land Use Application that must be reviewed and approved by the NYSDEC Regional Flood Control Engineer, the US Army Corps of Engineers District Engineer, and the NYSDEC Central Office Flood Control Engineer for projects that require use of flood control land. A portion of the Applicant's proposed transmission line route does utilize flood control lands; therefore, the Applicant will provide the required documentation and apply for the Part 501 permit following NYSDEC guidelines. Whether Article VII supersedes this permit is not known by the applicant, but CWE is proceeding to seek to obtain the permit as though Article VII does not supersede.

***New York State Department of Transportation – Utility Work Permit***

Pursuant to 17 NYCRR Part 131, the New York State Department of Transportation (NYSDOT) requires a permit in order to install utility facilities within a state highway ROW for crossings of State Route 36. The Applicant will apply for the Utility Work Permit prior to construction.

**Federal Filings and Approvals**

***U.S. Army Corps of Engineers – Section 10 and 404 Permits***

With certain exceptions, Section 404 of the CWA requires a permit from the USACE to discharge dredged or fill materials into waters of the United States, including wetlands (33 CFR Part 323). The temporary and permanent disturbance to wetlands associated with construction activities for the Transmission Facility are anticipated to be authorized by the USACE Buffalo District under Nationwide Permit (NWP) No. 12 (utility line activities). The Applicant will file an Application for Permit and supporting PCN after filing the Article VII Application.

Before the USACE can issue their approval, they will require the issuance of a WQC by the appropriate state agency, in this case, the PSC. Therefore, the Applicant requests the PSC issue a WQC in accordance with Section 401 of the Clean Water Act together with the Article VII CECPN.

The Applicant anticipates the USACE will coordinate with other federal agencies as required by the CWA and other federal regulations as part of its wetland permit review process. For instance, under Section 7 of the Endangered Species Act, federal agencies must consult with the U.S. Fish and Wildlife Service (USFWS) when any action the agency authorizes may affect a listed endangered or threatened species. Based on a review of the USFWS Information for Planning and Consulting (IPaC) database, the northern long-eared bat (*Myotis septentrionalis*) is listed as threatened and is located within the vicinity of the Transmission Facility. As indicated in Exhibit 4, the Transmission Facility is not anticipated to result in an

adverse impact to northern long-eared bat or other federally-listed species. These issues will be addressed in the PCN and supporting documentation to be submitted to the USACE.

***U.S. Army Corps of Engineers – Section 408 Permit***

Section 408 permits, authorized in Section 14 of the River and Harbors Appropriation Act of 1899), requires approval for the alteration of a USACE project, so long as that alteration is not injurious to the public interest and will not impair the usefulness of the work. The Applicant will apply for Section 408 approval for alterations to USACE flood control structures within the ROW.

**Other Filings and Approvals**

***Steuben County Industrial Development Agency***

The Applicant will need approval for financial assistance from the Steuben County Industrial Development Agency (SCIDA) via a Payment In-Lieu-of-Tax (PILOT) Agreement. Formal discussions between SCIDA and the Applicant regarding the PILOT agreement are anticipated to start in 2019.

***New York Independent System Operator - Large Generator Interconnection Procedures (LGIP)***

To interconnect the project, the Applicant must coordinate with and get approval from NYISO and the involved utility—New York State Electric and Gas Corporation (NYSEG)—at the proposed point of interconnection. The Applicant is currently in the Facilities Study stage of the LGIP and will participate in the 2018 Class Year.