



# **GARNET ENERGY CENTER**

**Case No.: 20-F-0043**

**1001.32 Exhibit 32**

**State Laws and Regulations**

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## Exhibit 32: State Laws and Regulations

This Exhibit will track the requirements of Final Stipulation 32, dated March 5, 2021, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.32.

### 32(a) State Approvals, Consents, Permits, Certificates, or Other Conditions of a Procedural Nature

The Applicant has compiled a list of state approvals, consents, permits, certificates, or other conditions of a procedural nature that are applicable to the construction or operation of the Garnet Energy Center (Project) (Table 32-1). These state requirements are supplanted by Public Service Law (PSL) Article 10, except for the PSL Section 68 certificate of public convenience and necessity to be issued by the New York State Department of Public Service (DPS) and any permits to be issued by the New York State Department of Environmental Conservation (NYSDEC) pursuant to federal recognition of state authority, or pursuant to federally delegated or approved authority, in accordance with the Clean Water Act (CWA), the Clean Air Act and the Resource Conservation and Recovery Act, and permits pursuant to § 15-1503, Title 9 of Article 27, and Articles 17 and 19 of the Environmental Conservation Law, unless the Board expressly authorizes the exercise of such authority by the state agency.

**Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature**

Permit/ Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
Certificate of Public Convenience and Necessity (Public Service Law §68)	New York State Public Service Commission	Projects generating 80 megawatts (MW) or greater.	Certificate is required per regulatory requirements as interpreted by the Siting Board in the Cassadaga Article 10 decision and order.	Concurrent with or after Article 10 Application review and approval.

**Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature**

Permit/ Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
Stormwater Permit for Discharges from Construction Activity (State Pollutant Discharge Elimination System [SPDES] GP-0-20-001)	New York State Department of Environmental Conservation (NYSDEC)	Soil disturbance of one or more acre.	Preparation of a Stormwater Pollution Prevention Plan (SWPPP).	Applicant will submit a Final SWPPP prior to construction and also submit Notice of Intent (NOI) to NYSDEC at least five days prior to construction.
Water Quality Certification (Section 401 of The Clean Water Act [CWA])	Siting Board	Projects that will result in the discharge of dredged or fill material into Waters of the United States (WOTUS).	Wetland and waterbody delineations for this Application were completed in June through November of 2020.	Issuance will be coordinated as part of the Article 10 process.
Highway Work and Use and Occupancy Permits	New York State Department of Transportation (NYSDOT)	Required for overhead or underground crossings of state highways, access roads from state highways, and temporary widening of intersections at state highways.	Complete Standard Permit Application.	Approved once collection line routes are final; anticipated immediately prior to start of construction.

**Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature**

<b>Permit/ Clearance</b>	<b>Regulatory Agency</b>	<b>When Required</b>	<b>Potential Studies &amp; Application Requirements</b>	<b>Status</b>
National Historic Preservation Act (Section 106)	New York State Historic Preservation Office (SHPO)	Project must go through review/consultation to determine whether it will affect historic properties.	Phase IA Archaeological Survey, Phase IB Archaeological Survey, and Historic Architectural Survey is complete.	Project has been preliminarily reviewed on SHPO Cultural Resources Information System (CRIS). Phase IA/IB and Historic Architecture Survey review coordinated with Article 10 process.
Agriculture and Markets Law – Article 25-AA	New York State Department of Agriculture and Markets (NYSAGM)	Consultation required as Project is located within certified Agricultural Districts.	Review of Agricultural District Mapping and Coordination with NYSAGM.	Consult with NYSAGM for recommendations on how to minimize impacts to agricultural operations as part of the Project. Consultation is incorporated within the Article 10 process.
Special Haul Permit	NYSDOT	Required for overweight and/or oversized deliveries.	Complete Standard Permit Application.	If determined necessary, approved once travel routes are final; anticipated immediately prior to start of construction.
Interconnection Studies	New York Independent System Operator (NYISO)	Interconnection Required.	Feasibility study and system reliability impact study complete.	System Reliability Impact Study (SRIS) is complete. Facility Study in progress.

**32(b) List of State Procedural Requirements**

Apart from the New York State Department of Transportation (NYSDOT) permits described in Table 32-1 above, the Applicant does not request the Siting Board to authorize any state agency to expressly authorize the exercise of authority for any procedural requirements.

**32(c) State Approvals, Consents, Permits, Certificates, or Other Conditions of a Substantive Nature**

The Applicant has compiled a list of state approvals, consents, permits, certificates, or other conditions of a substantive nature that are applicable to the construction or operation of the Project (Table 31-2). The Applicant intends to comply with the substantive requirements as outlined in Table 32-2.

**32(d) Summary Table of All State Substantive Requirements**

**Table 32-2. Summary Table of All State Substantive Requirements**

Provision	Degree of Compliance
Water Quality Certification. Section 401 of the CWA 6 New York Codes, Rules and Regulations (NYCRR) Part 621.4e (Water Quality Certifications in Accordance with Section 401 of the CWA)	The Applicant anticipates to fully comply.
Consultation Pursuant to §106 of the National Historic Preservation Act 9 NYCRR Part 428 (State Agency Activities Affecting Historic or Cultural Properties)	The Applicant anticipates to fully comply.
SPDES General Permit for Construction Activity Article 3, 6 NYCRR Part 750-1.11 (Application of Standards, Limitations and other Requirements)	The Applicant anticipates to fully comply.
Special Hauling Permit Section 385 of the New York State Vehicle and Traffic Law	If required, the Applicant anticipates to fully comply.

**Table 32-2. Summary Table of All State Substantive Requirements**

Provision	Degree of Compliance
NYSDOT Use and Occupancy of State Highway Rights-of-Way, 17 NYCRR Part 131 (accommodation of Utilities with State Highway Right-of-Way)	The Applicant anticipates to fully comply.
Highway Work Permit, New York State Highway Law, Article 3, §52	The Applicant anticipates to fully comply.

**32(e) List of State Approvals, Consents, Permits, Certificates, or Other Conditions for Offsite Components**

The Applicant has not identified any state approvals, consents, permits, certificates, or other conditions for any offsite interconnections or ancillary features, as there are no such interconnections or features proposed for the Project.

## References

- New York State Department of Environmental Conservation (NYSDEC). January 29, 2020. SPDES General Permit for Stormwater Discharges from Construction Activity (Permit No. GP-0-20-001). [https://www.dec.ny.gov/docs/water\\_pdf/constgp020001.pdf](https://www.dec.ny.gov/docs/water_pdf/constgp020001.pdf). Accessed November 2020.
- NYSDEC. May 1997. Article 24 Freshwater Wetlands, Title 23 of Article 71 of the Environmental Conservation Law. [https://www.dec.ny.gov/docs/wildlife\\_pdf/wetart24b.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/wetart24b.pdf). Accessed November 2020.
- New York State Parks, Recreation and Historic Preservation. n.d. Federal and State Preservation Legislation. <https://parks.ny.gov/shpo/environmental-review/preservation-legislation.aspx>. Accessed November 2020.
- United States Environmental Protection Agency. May 1, 2019. Clean Water Act Section 401: State Certification of Water Quality. <https://www.epa.gov/cwa-401/clean-water-act-section-401-state-certification-water-quality>. Accessed November 2020.