



**EIGHT POINT WIND, LLC**  
**115 kV TRANSMISSION LINE**

**Case No. 18-T-\_\_\_\_\_**

**Exhibit 7**

**Local Laws and Ordinances**



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## Exhibit 7: LOCAL LAWS AND ORDINANCES

### 7.1 Introduction

Eight Point Wind, LLC (Eight Point Wind or Applicant) is planning to construct, operate and maintain a new overhead 115 kV transmission line (Project). The approximately 16.5 miles Project will begin at the proposed Eight Point Wind Energy Center (EPWEC) collection substation in Greenwood and interconnects to new Point of Interconnection (POI) facilities within the New York State Electric and Gas Corporation (NYSEG) existing 115 kV Bennett substation in Hornellsville, New York. A right-of-way (ROW) of approximately one hundred (100) feet will be established along the transmission line. This transmission line and its ROW and POI are collectively referred to as the Project or Project facilities. When the term “Project Area” is used, the document will define the relevant area of interest. Copies of the laws discussed below are found in Appendix 4-1 to 4-4 to this Application.

The Project is proposed to be sited within the following jurisdictions in Steuben County:

- Town of Greenwood (origination point; 115 kV transmission line)
- Town of Hartsville (115 kV transmission line)
- Town of Hornellsville (115 kV transmission line; terminus at Bennett substation)

This exhibit identifies, for each of the jurisdictions listed above, the substantive local ordinances, laws, resolutions, regulations, standards and other requirements applicable or potentially applicable to the Project (Local Ordinances). As discussed below, the Applicant will comply with, and the design of Project as proposed conforms with, all substantive local laws and ordinances that are applicable to the Project.

Due to the preemptive effect of Public Service Law (PSL) Section 130, all procedural requirements to obtain any approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply.

### 7.2 Town of Greenwood

Based on our review and consultations with town officials, there are no zoning laws in the Town of Greenwood. In terms of Local Ordinances, the following have been identified as applicable or potentially applicable to the Project.

#### Greenwood Local Law 1 – 2009

This Local Law modified Greenwood Local Law 1 – 1987, which regulated uses in areas prone to flooding. The law establishes a Floodplain Development Permit for construction and other development to be undertaken in areas of special flood hazard as shown on Flood Insurance Rate Maps. The law also establishes general standards for construction in areas of special flood hazard, the requirement that new construction receive a certificate of compliance, and the procedure for obtaining variances. The law also set general standards for new and substantially improved structures in areas of special flood hazard, including a requirement that new construction that encroaches streams or regulatory floodways will not result in a significant increase of the water surface elevation.

*Regarding the specific substantive provisions for flood damage prevention in this chapter, the transmission structures are not prone to flood damage, will not increase flood heights or alter floodplains, and will not increase flood hazards to other property. Accordingly, the Project will comply with the substantive provisions of this chapter as appropriate although the procedural local permit requirements (e.g. floodplain development permit, certificate of compliance) are not applicable to the Project.*

#### Greenwood Local Law 1 – 2017

The Town of Greenwood adopted amendments modifying the previous law (Local Law 2 – 2014) relating to constructing, maintaining and operating a wind energy facility. The law requires that all wind energy facilities must obtain a Wind Energy Facility Permit prior to construction or operation of said facility. A Wind Energy facility is defined as “any WTG [Wind Turbine Generator], Small WTG, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures” (Section 4 – Definitions). Section 12 – Standards for Wind Energy Facilities states that “all power collection lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.” The Project is not comprised of collection lines originating at a wind tower and extending to a building or other structure of a Wind Energy Facility so the law is inapplicable to the Project.

*Applicable substantive provisions of this law are being addressed in the concurrent Article 10 proceeding that is reviewing the proposed EPWEC. As explained in the Article 10 application, EPWEC will comply with the applicable substantive provisions.*

### 7.3 Town of Hartsville

Based on our review and consultations with town officials, there are no zoning laws in the Town of Hartsville. In terms of Local Ordinances, the following have been identified as applicable or potentially applicable to the Project.

#### Hartsville Local Law 1 – 2006

The Town of Hartsville adopted the New York State Uniform Fire Prevention and Building Code (Uniform Code) and the New York State Energy Conservation Construction Code (Energy Code).

*The Hartsville Uniform Code and Energy Code do not apply to this Project, as the Project does not comprise any buildings such as substations, converter stations or compressor stations in this town.*

#### Hartsville Local Law 2 – 2009

This Local Law modified the previous law (Local Law 1- 2007) relating to constructing, maintaining and operating a wind energy facility. The law requires that all wind energy facilities must obtain a Wind Energy Facility Permit prior to construction or operation of said facility. A Wind Turbine Energy facility is defined as “any WTG [Wind Turbine Generator], Small WTG, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures” (Section 5 – Definitions). Section 10 – Standards for Wind Energy Facilities states that “all power transmission lines

from the tower to any building or other structure shall be located underground to the maximum extent practicable.”

*This law is inapplicable as the Project does not comprise any power transmission lines that extend from a wind tower to any building or structure of a Wind Energy Facility in this town. Applicable substantive provisions of this law are being addressed in the concurrent Article 10 proceeding for the EPWEC. As explained in the Article 10 application, EPWEC will comply with the applicable substantive provisions.*

#### Hartsville Local Law 1 – 2016

Pursuant to §1660 of the New York State Vehicle and Traffic Law and §140 of the New York State Highway Law, the Town of Hartsville adopted regulations providing for “the creation of truck routes, for the permanent and temporary exclusion of certain traffic and for the adoption of additional reasonable ordinances and local laws with respect to traffic as conditions require” (Section 2(d)). The law tasks the Hartsville Superintendent of Highways with promulgating a Road Preservation Law Permit at his/her discretion (Section 3(b)).

*Based upon the Applicant’s review, there is no publically available permitting regime, or substantive requirements that were implemented. Accordingly, this law is inapplicable to the Project.*

*Nevertheless, during construction transportation requirements for equipment and employees cannot be entirely avoided because they are necessary to build the Project and there is no reasonable method that would allow the Applicant to build the line without using the Town roadways and highways. That said, the Applicant will prepare a Maintenance and Protection of Traffic (MPT) plan for Commission and the parties’ review in the Environmental Management and Construction Plan (EM&CP), detailing the measures it will take to manage traffic during the construction period. The Applicant will consult with local traffic authorities to receive their input and coordinate traffic management during construction activities. In addition, the Applicant intends to enter into discussions concerning a road use agreement with the Town, addressing the use of local roads and the repair of any damage to them due to construction of the Project. Accordingly, the Applicant will employ approved engineering and traffic management measures, although the procedural local permit requirement (e.g. Road Preservation Law Permit) is not applicable to the Project.*

## 7.4 Town of Hornellsville

### 7.4.1 Zoning Ordinance

The Town of Hornellsville has a zoning law in place (the Hornellsville Zoning Ordinance, adopted May 14, 2013 (see Appendix 7-3)). Based on the Town’s Zoning Map (see Figure 7-1), approximately 10,367 feet (3,160 meters) of the Transmission Line will be located within the Agricultural District (AG) and approximately 1,162 feet (354 meters) at the northern portion of the Project (including the connection to the existing Bennett substation) are located within the R-1A R-1B (Single-Family Residence District).

In Article 200 - Definitions of the Hornellsville Zoning Ordinance, a structure is defined as “anything constructed or erected, which requires permanent location on the ground or attachment to something having such location.” For the purpose of this analysis, the Applicant will assume that the transmission line poles would fall under this definition based on the need for these poles to be erected and maintained in a permanent location. Therefore, the following sections of the Hornellsville Zoning Ordinance were evaluated by the Applicant.

#### Section 301.1: Preservation of natural features

This section states that no structure shall be built within fifty feet (50') of the bed of a stream carrying water on an average of six (6) months of the year, or on land subject to periodic overflow. Existing natural features such as trees, brooks, drainage channels and views shall be retained. Whenever such features interfere with the proposed use of such property, retention of the maximum amount of such features consistent with the use of the property shall be required.

*As explained in Exhibit 4, the Applicant will make practical efforts to avoid these features and minimize the area of disturbance consistent with applicable state and federal requirements, taking into account engineering and safety requirements attendant to the construction, operation and maintenance of transmission lines. All Project construction activities will utilize widely-accepted stormwater and erosion control measures, as specified in by the Project’s Stormwater Pollution Prevention Plan (SWPPP). A preliminary version of the SWPPP is provided as Appendix 4-6 of this Application. Based upon the Best Management Practices (BMPS) in the SWPPP, siltation and sedimentation impacts will be negligible throughout the construction phase of the Project. All disturbed areas within floodplains will be restored after construction. Because there will be no permanent change in topography within the designated floodplains following construction of the Project, construction and operation of the Project will not have any permanent impacts on the floodplains or other upstream and downstream properties. The Applicant will comply with the substantive provisions of this section.*

#### Section 301.1.1 - Regulations Applicable to All Zones

Subsection K of this section states that customary local utility distribution or collection lines for water, gas, telephone or electric service shall be permitted use in all districts and shall not require a Special Use Permit. Public utility uses such as dial equipment centers and electrical substations and transmission lines may be permitted in any zone district with a Special Use Permit. The term “public utility” is not defined in the zoning ordinance. The Applicant, which will own and operate EPWEC and the Project, will be subject to the jurisdiction of the PSC as an electric corporation.

*There are no substantive requirements stated in this zoning ordinance with which a proposed transmission line must comply, and the procedural local permit requirements (e.g. Special Use Permit) are not applicable to the Project. Accordingly, this section is inapplicable to the Project.*

#### Section 301.2 – Residential Provisions

Under Section 301.2.3, permitted uses do not include “any use which is noxious or offensive by reason of refuse, matter, dust, odor, smoke, gas, fumes, noise, vibration, unreasonable use of lights or night time operation.”



*New transformers are not needed at the POI substation and therefore no new permanent noise impacts are expected. Construction noise related impacts from the installation of the transmission poles and stringing the transmission line will be short-term, typical of construction projects and are expected to be minimal. Further, the nature of construction to be performed, especially for the transmission poles, dictates that construction activities and associated sound levels will move along the route and that no one residence will be exposed to significant sound levels for an extended period. Best Management Practices (BMPs) will be employed to avoid noxious or offensive impacts due to dust, odor, fumes, vibrations or other construction-related by-products. These BMPs, which include allowing dust to settle when encountered on roads, spraying water on dirt roadways, and having an on-site environmental monitor, are described generally in Exhibit 4 of the Application and will be detailed in the Project's EM&CP. The Applicant will comply with the substantive provisions of this section.*

#### Section 304.0 – Landscaping Required

This section requires that landscaping plans be submitted in addition to plot plans for the following districts: 704 Shopping Center District, 705 General Business District, 706 Limited Industrial District, 707 General Industrial District”.

*This section does not apply to the Project, which only occupies Agricultural and Single Family Residential districts.*

#### Section 701.3 Uses Permitted with a Special Use Permit – Agricultural District and Section 702.3 Uses Permitted with a Special Use Permit – Single Family Residential Districts

Under these sections, public utilities are a permitted use with a Special Use Permit. The term “public utilities” is not defined in the zoning ordinance.

*As the Project will be owned and operated by Eight Point Wind, LLC, which will be regulated by the PSC as an electric corporation, the Project is a permitted use. The Project will comply with the applicable substantive General Criteria for All Special Uses (Section 505.7). Based upon the studies presented in this Application, particularly those discussed in Exhibit 4, the Applicant has shown that the Project complies: it is of a character, type, scale, and intensity that is compatible with the surrounding neighborhood and land uses, and its site design is consistent with the Town and safeguards the health, safety, and welfare of the Town and its residents (Section 505.7.1); the Project would not adversely affect neighboring properties with respect to such things as storm water drainage, glare, noise, vibration, loss of natural light, risk of fire, flood, or erosion, odors, dust, historic structures, the structural integrity of buildings, the value of nearby buildings and properties, and other similar matters (Section 505.7.2); vehicular access to the Project is minimal and adequate (Section 505.7.3); the circulation and parking criterion is not applicable to the Project (Section 505.7.4); the Project avoids or minimizes to the maximum extent practicable visual and aesthetic impacts (Section 505.7.5); the general landscaping of the Project site will be in character with the surrounding areas (Section 505.7.6); the Project will preserve natural features (Section 505.7.7); and any directive to restore the site would be procedural in nature and preempted by PSL Section 130 (Section 505.7.8). The Applicant will comply with the substantive provisions of this section, although the procedural local permit requirements (e.g. Special Use Permit) are not applicable to the Project.*

### Section 901.0 Prohibited Uses in the Town of Hornellsville

This section lists prohibited uses, including “any use which emits excessive and objectionable amounts of dust, fumes, noise, odor, smoke, vibration, glare or waste products.”

*As explained above, the Applicant will comply with the substantive provisions of this section.*

### Section 910 - Signs and Outdoor Advertising

Section 910.10 states that “signs necessary for the identification, operation or protection of a public utility installation” are a permitted use.

*The Applicant’s signs necessary for public/employees/contractor safety relating to transmission lines are allowed under this provision. The Applicant will comply with the substantive provisions of this section.*

## **7.4.2 Local Laws**

### Hornellsville Local Law 3 – 2006

The Town of Hornellsville adopted the New York State Uniform Fire Prevention and Building Code (Uniform Code) and the New York State Energy Conservation Construction Code (Energy Code).

*The Hornellsville Uniform Code and Energy Code may apply as Applicant is currently proposing to fund and construct proposed upgrades in Bennett substation. Those proposed upgrades are subject to on-going discussion at the New York Independent System Operator (NYISO). Accordingly, the applicability of the Uniform Code and Energy Code cannot be determined at this time but will be evaluated and presented when they are known.*

### Hornellsville Local Law 1 – 2008

The Town of Hornellsville adopted rules and procedures for creating a Wind Energy Overlay Zone and Special Use Permit regime. The law defines a Wind Energy Conversion System (WECS) as a “machine that converts the kinetic energy in the wind into a usable form (commonly known as a “wind turbine” or “windmill”)” and a Wind Energy Facility as “any Wind Energy Conversion System, including Small Wind Energy Conversion Systems, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads, and accessory structures” (Section 709.03 Definitions).

Section 709.4(b) states that “no WECS, except Small WECS, shall be constructed, reconstructed, modified, or operated ... except in a Wind Energy Overlay District, pursuant to an application for rezoning and for special use permit approved pursuant to this Section 709.00.” The Wind Energy Overlay District can only be created in the Agricultural (AG) District (Section 709.06(A)). Standards for WECS (709.09) include that “all power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable (sic)” and “substations required to serve WECS shall be screened from public view to the extent possible.”

*This provision does not apply to the Project. No WECS structures will be installed in the Town of Hornellsville so the restrictions related to the Wind Energy Overlay District do not apply to the Project.*

### Hornellsville Local Law 3 – 2013

The Town of Hornellsville adopted regulations related to “commercial activities that have the potential to adversely affect road right-of-ways”. High Frequency, High Impact Truck Traffic is defined as “traffic to and from a single project site that generates more than ten truck trips per day for more than four consecutive days, involving trucks that exceed 20 tons (truck and load combined) that could impact Town road right-of-ways” (Section III Definitions). Section IV General Provisions states that “prior to the start of any project that involves high frequency, high impact truck traffic that could have an impact on Town right-of-ways, a permit must be obtained.”

*Construction of the Project is monitored by the NYS Department of Public Service (DPS), and other state agencies where applicable. The authority to issue a stop work order lies with the PSC and is typically delegated to the DPS in an Article VII Certificate. The Applicant intends to work closely with Town officials to coordinate transportation/traffic management needs and the Applicant will comply with the substantive provisions of this section although the procedural local permit requirements (e.g. stop work authority, traffic permit) are not applicable to the Project.*

*The Applicant will comply with the bonding, insurance, fees and special conditions in Sections IV–VI of the Law to the extent they are specified with particularity in the Local Law and that are reasonable and customary. In addition, the Applicant will comply with sub-paragraphs 1-3 in Section VII, and the second set of sub-paragraphs 1-3 in the same section. The Applicant will comply with the substantive requirements of this Local Law, although the imposition of any new conditions by the Town is procedural and not applicable to the Project.*

*During construction, transportation requirements for equipment and employees cannot be entirely avoided because they are necessary to build the Project and there is no reasonable or cost-effective technology that would allow the Applicant to build the line without using the Town roadways and highways. That said, the Applicant will prepare a Maintenance and Protection of Traffic (MPT) plan for Commission and the parties’ review in the EM&CP, detailing the measures it will take to manage traffic during the construction period. The applicant will consult with local traffic authorities to receive their input and coordinate traffic management during construction activities.*

## 7.5 Steuben County

In terms of local laws in Steuben County (County), the following have been identified as applicable or potentially applicable to the Project.

### Steuben County Local Law 1 - 1976

Pursuant to the New York State Freshwater Act as enacted at that time, the County established its authority with regards to activities within and up to 100 from wetlands mapped by the New York State Department of Environmental Conservation (NYDEC). Their regulatory authority extended to all “procedures, concepts and definitions set forth in New York State Freshwater Wetland Act” (Article 24

of the New York Environmental Conservation Law) as amended over time, as well as any statutory authority related to the enforcement of this law.

*As explained in Exhibit 4, the Project as currently designed is not within one hundred (100) feet of any NYDEC mapped wetland. Should it be necessary at some future date to be within this distance of a NYDEC mapped wetland, the Applicant will seek Commission approval and it is expected that the substantive requirements of the Freshwater Wetland Act will be met, although the procedural local permit requirements (e.g. county review) are not applicable to the Project.*

#### Steuben County Local Law 19 – 2006

Steuben County adopted the New York State Uniform Fire Prevention and Building Code (Uniform Code). The law provided for the administration and enforcement of the Uniform Code by the County for work performed on County property and in municipalities that have opted out of enforcement of the Uniform Code. The law established a code enforcement officer, building permit program, and standards for inspections.

*The Steuben County Uniform Code does not apply to this Project, as Hornellsville enforces the Uniform Code and the Project is not on County land.*

As the Project will not require any procedural local permitting (e.g. special use permits, site plan approval, variances), referral of the Project to Steuben County under General Municipal Law (GML) 239-m is not required.

#### Conclusion

Based on the above analysis, at this time the Applicant is not requesting that the Commission refuse to apply any substantive local requirements for the towns or County in which the Project is located.