



**EIGHT POINT WIND, LLC**  
**115kV Transmission Line**

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

**Exhibit 8**

**Other Pending Filings**



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## Exhibit 8: OTHER PENDING FILINGS

This Exhibit identifies other applications or filings of the Applicant and of others pending before Federal and State agencies related to the design, construction and operation of the Project.

### 8.1 Federal Approvals

#### *8.1.1 U.S. Army Corps of Engineers – Clean Water Act Section 404 Permit*

The U.S. Army Corps of Engineers (USACE) Clean Water Act (CWA) Section 404 (33 CFR 323) jurisdiction includes discharges of dredge or fill material into waters of the United States, including wetlands.

As described in Exhibit 4, the proposed new transmission line will cross wetland areas that are regulated by the USACE. Based on past experience, the temporary wetland disturbance associated with construction activities for the Project is likely to be authorized by the USACE's Buffalo District under Nationwide Permit (NWP) Number 12 (Utility Line Activities) or NWP 33 (Temporary Construction, Access and Dewatering). Pre-application consultations with the USACE, Buffalo District, will determine the applicable NWP, and any required documentation or Pre-Construction Notification will be provided in conjunction with the filing of the Environmental Management and Construction Plan (EM&CP).

#### *8.1.2 Endangered Species Act, Section 7 Consultation*

As part of the USACE permitting process, and in accordance with the Endangered Species Act (ESA), review of impacts to federally listed species will occur through a Section 7 consultation in which the USACE, as the lead federal agency, will consult with the U.S. Fish and Wildlife Service (USFWS).

### 8.2 New York State Approvals

#### *8.2.1 New York State Public Service Commission*

In addition to the Applicant's request to the New York State Public Service Commission (NYPSC) for a Certificate of Environmental Compatibility and Public Need (Certificate), the Applicant will submit for approval one or more EM&CP(s).

The Applicant has also filed for Article 10 certification (Case No. 16-F-0062) for the associated Eight Point Wind Energy Center (EPWEC) located in the Towns of Greenwood and West Union. The EPWEC relies on the 16.5-mile 115kV transmission line discussed in this Article VII Application to transmit the generated energy to the New York Independent System Operation (NYSIO) system.

The Applicant also requests through this Article VII application that the NYPSC issue a Water Quality Certificate (WQC) in accordance with Section 401 of the CWA for this Project.

In addition, the Applicant will be filing a petition with the NYPSC pursuant to Section 68 of the PSL for a certificate of public convenience and necessity seeking NYPSC approval for the Applicant, amongst other things, to exercise rights granted by applicable municipalities, in road use agreements, for the EPWEC

and the Project to cross municipal roads, where required. A lightened regulatory regime will also be requested consistent with NYPSC precedent.

### *8.2.2 New York State Department of Environmental Conservation – SPDES General Permit for Storm Water Discharges Associated with Construction Activities*

CWA Section 402 (40 CFR Part 123) requires storm water run-off be managed throughout construction and therefore a Stormwater Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) will be submitted to the New York State Department of Environmental Conservation (NYSDEC) under the State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity (GP-0-15-002) prior to construction (in parallel with the EM&CP approval process).

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

The New York State Department of Transportation (NYSDOT) requires that a Utility Work Permit application be submitted to install utilities within or adjacent to State highway rights-of-way. Following NYPSC approval of the EM&CP(s) for the Project, the Applicant will obtain highway work permit(s) from NYSDOT pursuant to 17 NYCRR Part 131 for the construction and operation of the Project, subject to the NYPSC's continuing jurisdiction.

## **8.3 Filings by Others**

The Applicant is not aware of any pending filing by others that concerns the subject matter of this proceeding before the Commission.