



# **EXCELSIOR ENERGY CENTER**

**Case No. 19-F-0299**

**1001.33 Exhibit 33**

**Other Applications and Filings**

**Contents**

Exhibit 33: Other Applications and Filings ..... 1

    33(a) Statement of Other Applications and Filings ..... 1

    33(b) Anticipated Federal Permits, Consents, Approvals, or Licenses..... 1

## **Exhibit 33: Other Applications and Filings**

This Exhibit will track the requirements of Stipulation 33, dated July 6, 2020, and therefore, the requirements of 16 New York Codes, Rules and Regulations (NYCRR) § 1001.33.

### **33(a) Statement of Other Applications and Filings**

The Applicant does not have, and does not know of others who have any other pending applications or filings with the New York State Department of Public Service (NYSDPS) or any other governmental department, agency, or court concerning the subject matter of the Project.

The Applicant participated in the 2018 Renewable Energy Standard Solicitation Request for Proposal (RESRFP 18-1) and was selected by the New York State Energy Research and Development Authority (NYSERDA) as a winning bidder with respect to the Excelsior Energy Center.

Based on the size of the Project, as noted in Exhibit 32, the Applicant will apply to the NYPSC for a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law (PSL) authorizing the exercise of municipal rights to occupy municipal property and for other authorizations clarified by the Siting Board in its Cassadaga decision issuing the certificate.

### **33(b) Anticipated Federal Permits, Consents, Approvals, or Licenses**

The following federal permits, consultations, consents, approvals, or licenses are anticipated to be required for construction or operation of the Project:

#### ***United States Fish and Wildlife Service (USFWS):***

- Endangered Species Act, Section 7 Consultation

#### ***United States Army Corps of Engineers (USACE):***

- National Environmental Policy Act (NEPA) compliance;
- National Historic Preservation Act, Section 106 compliance; and
- Section 404 of the Clean Water Act (CWA) or Nationwide Permit for Placement of Fill in federal Jurisdictional Wetlands, Waters of the United States (WOTUS)
  - The Applicant anticipates the need for a Nationwide Permit to authorize minimal temporary and permanent disturbances to WOTUS. To initiate this process, the Applicant submitted a copy of the Project's Wetland and Waterbody Delineation

Report (Appendix 22-6) to Steve Metivier, Chief, NY Application Evaluation Section for the Buffalo District of the USACE, on March 18, 2020 along with a request for a boundary verification of the features presented in the report. Mr. Metivier responded on April 14, 2020 confirming that the verification request had been assigned to Ms. Heather Adams under the processing number 2020-00530. Copies of this correspondence are provided in Appendix 22-9. Statewide restrictions related to COVID-19 hampered scheduling of a site visit, but the Applicant has maintained regular email and phone communications with Ms. Adams and intends to schedule a site visit and/or web-based pre-application meeting when feasible.

The dates of these federal applications will be contingent upon certification of the Project through Article 10 of the PSL. The Applicant anticipates submitting an application for a Nationwide Permit for Placement of Fill in Federal Jurisdictional Wetlands during the 12 month Article 10 Application review period. In addition, the Secretary, presiding examiner, and each party will be notified of any significant change in the status of each such application.