

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on December 17, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard

CASE 19-E-0121 - Petition of Bluestone Wind, LLC for an
Original Certificate of Public Convenience
and Necessity and for an Order Granting
Lightened Regulation.

ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
AND PROVIDING FOR LIGHTENED REGULATION

(Issued and Effective December 18, 2020)

BY THE COMMISSION:

INTRODUCTION

In a petition that was initially filed on February 20, 2019, and was subsequently amended (collectively, the Petition), Bluestone Wind LLC (Bluestone or Petitioner) requested a Certificate of Public Convenience and Necessity (CPCN) pursuant to Public Service Law (PSL) §68. The CPCN was sought in relation to Bluestone's development of an approximately 124 megawatt (MW) wind generating facility (the Facility) located in the Town of Sanford and the Town of Windsor, Broome County, New York. The Petition also requested a lightened regulatory regime for Bluestone in connection with its ownership and operation of the Facility.

In this Order, the Public Service Commission (Commission) finds that Bluestone has satisfied the statutory requirements of PSL §68 and accordingly grants a CPCN in

connection with the Facility. The Commission also grants Bluestone a lightened regulatory regime because it will own and operate the Facility on a merchant basis and participate in the competitive wholesale markets administered by the New York Independent System Operator, Inc. (NYISO).

BACKGROUND

On September 18, 2018, Bluestone filed an application with the New York State Board on Electric Generation Siting and the Environment (Siting Board) seeking a Certificate of Environmental Compatibility and Public Need (CECPN) to construct the Facility pursuant to PSL Article 10. In anticipation of the need to also obtain a CPCN, Bluestone filed the instant Petition. Subsequently, the Siting Board issued a CECPN for Bluestone to construct and operate the Facility.¹

On May 12, 2020, Bluestone and co-petitioners filed a separate petition asking the Commission to declare that the proposed sale of Calpine Wind Holdings LLC (Calpine) to Northland Power New York Wind LLC (Northland), involving upstream corporate ownership interests in Bluestone, did not require further review under PSL §70. As explained in that petition, Calpine Wind, as a wholly owned subsidiary of Calpine Corporation (Calpine), intended to sell certain subsidiary development companies and their holdings, including the New York development companies Bluestone and High Bridge Wind, LLC, to

¹ Case 16-F-0559, Bluestone Wind LLC, Order Granting Certificate of Environmental Compatibility and Public Need, With Conditions (issued December 16, 2019) (PSL Article 10 Order).

Northland.² The Commission granted the request and issued a Declaratory Ruling on July 17, 2020.³

THE PETITION

The Petition seeks a CPCN and lightened regulatory regime in connection with Bluestone's ownership and operation of the Facility. In support of the request for lightened regulation, the Petition notes that Bluestone would operate the Facility as a competitive wholesale generator and that it should be entitled to such a regulatory framework, which the Commission has provided for numerous generators operating under similar circumstances.

In support of the request for a CPCN, Bluestone is identified as a limited liability company organized under the laws of the State of Delaware for the purposes of constructing, owning, and operating the Facility. A copy of Bluestone's Certificate of Formation is attached as Exhibit A. Confirmation that Bluestone is registered to do business in New York is also attached as Exhibit B.

The Petition further advises that the only municipal consents required to construct and operate the Facility are related to the Host Community Agreements/Road Use Agreements with the host municipalities. The Road Use Agreement with the Town of Sanford is included as Exhibit D of the initial filing of the Petition. On August 5, 2019, the Petitioner filed a

² High Bridge Wind, LLC is the project sponsor of a proposed 100 MW wind generating facility in the Town of Guilford, Chenango County, New York, that is pending before the Siting Board in Case 18-F-0262.

³ Case 20-E-0230, Bluestone Wind, LLC, et al., Declaratory Ruling on Review of Transfer Transaction (issued July 17, 2020).

supplement that included an executed Road Use Agreement with the Town of Windsor and advised that the agreement was the only outstanding municipal consent. The amendment to the Petition, filed August 14, 2020, provided an updated verified statement of its president that Bluestone has received all required municipal consents. A supplement was also filed on September 11, 2020, including a verified statement of Bluestone's secretary attesting to the same matter.

The August 14, 2020 amendment to the Petition also reflected the change in upstream ownership from Calpine to Northland.⁴ Bluestone reports that Northland is a Delaware limited liability company and an indirect wholly owned subsidiary of Northland Power Inc. (Northland Power). Northland Power is a publicly traded company on the Toronto stock exchange, based in Toronto, Canada, that develops, builds, owns, and operates power infrastructure assets. Northland Power currently owns no operating generation assets in the United States; it owns generation assets operating or under construction in Canada, Germany, Netherlands, and Mexico, and projects under development in the United States, Taiwan, South Korea, and Japan. The power generation assets owned by Northland Power are based on wind, natural gas, biomass, and solar technologies.

Bluestone further reports that, as of April 24, 2020, Northland Power owns or has a gross economic interest in 2,681 MWS (2,266 MW net) of operating generating capacity. The 2,681 MWS of operating capacity is comprised of the following projects: (i) three offshore wind projects in Europe (1,184

⁴ Bluestone advises that Northland completed the purchase of the Bluestone and High Bridge Wind projects from Calpine on July 27, 2020.

MWs), (ii) two natural gas-fired projects in Saskatchewan, Canada (346 MWs), and (iii) solar, wind and thermal projects in Ontario and Quebec, Canada (1,151 MWs). In 2020, Northland acquired Empresa de Energía de Boyacá, a regulated power distribution utility located in Colombia serving 480,000 customers. Northland Power also has an indirect ownership interest in Northland Power Energy Marketing (US) Inc. (NPEMUS). NPEMUS engages in the purchase and sale of electric energy in the United States wholesale energy markets. NPEMUS does not own or control electric generation, transmission, or distribution facilities in the United States and does not hold a franchise, service territory or native load obligation within the United States or Canada. NPEMUS does not engage in sales to New York ratepayers.

In addition to the Bluestone and High Bridge Wind projects, Northland recently purchased the 100 MW Ball Hill Wind Project in Chautauqua County, New York, and the transaction is pending certain regulatory approvals to close. The Bluestone Wind, High Bridge Wind, and Ball Hill Wind projects (once closed) represent Northland Power's first projects in the United States. These projects are intended to operate as competitive generators in the wholesale electric market.

The revised Petition also asserts that Petitioner's affiliates have substantial experience in the construction and operation of utility-scale electric generation facilities of all types, including wind. In support of its economic feasibility and ability to finance improvements, Bluestone avers that Northland Power is well capitalized and has excellent access to capital on short notice. As of August 6, 2020, Northland Power's market capitalization was \$5.6 billion and fiscal year

2019 revenue was \$1.3 billion.⁵ Northland Power possesses cash-on-hand, as of March 31, 2020, of \$466 million and a \$741 million corporate credit facility, which as of December 31, 2019, had \$321 million of credit available. Northland Power has also utilized acquisition bridge loans, most recently in January 2020, with a \$367 million facility used to assist with the acquisition of EBSA, a Colombian distribution utility.

As further noted, Northland Power's cash on hand is uncommitted and available immediately. Borrowings under Northland Power's corporate credit facility are typically completed in two to three days, and due to the nature of the Canadian capital markets, common and/or preferred equity can be raised in as little as two weeks. According to Bluestone, Northland Power's shareholders and banking relationships continue to be extremely supportive of Northland Power's core strategy: to continue to expand its generation and utility businesses in its target jurisdictions, allowing Northland Power to raise over \$1.3 billion in equity capital since 2015.

Bluestone plans to finance construction of the Facility through a combination of balance sheet, construction loans, or other financing mechanisms. The Facility would realize income from the sale of energy pursuant to a long-term off-take agreement and the sale of "green attributes." Bluestone notes that the New York State Energy Research and Development Authority (NYSERDA) issued an award to Bluestone in March 2018 for the construction of the Facility, including 6.2 MW of energy storage, marking the first time a large-scale renewable project has included an energy storage component in New York.

⁵ The amounts noted in this Order are expressed in U.S. dollars.

PUBLIC NOTICE AND COMMENT

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking (Notice) concerning the request for lightened regulatory treatment was published in the State Register on May 8, 2019 [SAPA No. 19-E-0121SP1]. The time for submission of comments pursuant to the Notice expired on July 8, 2019. Over 70 public comments were received. These include several different comments filed by the same individual, several comments that were filed by different individuals but were essentially identical, and one set of comments that included multiple individuals. Although several comments noted support for the Facility, almost all of the comments expressed opposition to the Facility based on its potential public health, social, environmental, and economic impacts, along with concerns about decommissioning and site restoration. The only comments received concerning the request for lightened regulation raised general claims that a sufficient justification had not been provided or suggested that such a regulatory structure should not applied.⁶ While several comments noted general concerns with Calpine's financial viability and noted that Calpine has gone through bankruptcy previously, no comments were received related to Northland.

On August 28, 2019, the Secretary to the Commission (Secretary) issued a Notice of Public Statement Hearing. A Public Statement Hearing was held in Windsor, New York on September 12, 2019. Comments were received at the hearing from 31 individuals.⁷ The comments received reiterated the same positions as were expressed in response to the SAPA Notice.

⁶ See, e.g., Comments of Tim Lewis (filed November 16, 2019).

⁷ Case 19-E-0121, Transcript of Public Statement Hearing (filed September 23, 2019).

Following a procedural conference on February 10, 2020, Broome County Concerned Residents (BCCR) was provided an opportunity to conduct discovery.⁸ In e-mail correspondence on September 25, 2020, BCCR advised that it was withdrawing from this proceeding based on the transfer of Bluestone from Calpine to Northland. On October 7, 2020, Administrative Law Judge Sean Mullany issued a ruling finding that no material issues of fact existed and there was no need for further evidentiary process.

LEGAL AUTHORITY

PSL §68 prohibits an electric corporation from constructing electric plant, or from exercising any right or privilege under any franchise, until it receives the Commission's approval in a CPCN. In this instance, however, the Siting Board's issuance of a PSL Article 10 CECPN supplants the requirement for construction approval under PSL §68, but not the requirements for Commission approval of its corporate formation and the exercise of any municipal "right, privilege or franchise."⁹

Before the Commission may issue a CPCN, the electric corporation seeking approval must provide a certified copy of its charter and a "verified statement of the president and

⁸ Case 19-E-0121, Ruling Establishing Schedule (issued April 3, 2020).

⁹ Case 05-T-0089, Fortuna Energy, Inc., Order Requiring a Hearing and Extending the Time Required to Render a Decision Pursuant to Public Service Law Section 121-a(7) (issued March 23, 2005); see Matter of TransGas Energy Sys., LLC v. New York State Bd. on Elec. Generation Siting & Emt, et al., 2009 NY Slip Op 6696 (2d Dept., 2009), lv. Denied 2010 NY Slip Op 60611; Case 10-G-0462, DMP New York, Inc. and Laser Northeast Gathering Company, LLC, Order Granting Certificate of Public Convenience and Necessity and Providing for Lightened Rate Making Regulation (issued February 22, 2011).

secretary of the corporation, showing that it has received the required consent of the proper municipal authorities." In considering its approval, the Commission "shall consider the economic feasibility of the corporation, the corporation's ability to finance improvements of a gas plant or electric plant, render safe, adequate and reliable service, and provide just and reasonable rates, and whether issuance of a certificate is in the public interest."¹⁰ Applicants seeking approval under PSL §68 must support their request by providing relevant information described in 16 NYCRR Part 21.

DISCUSSION

Certificate of Public Convenience and Necessity

Based upon the information provided in the Petition, the Commission finds that Bluestone has satisfied the filing requirements within PSL §68. In particular, the Petition includes a copy of Bluestone's Certificate of Formation, as verified by the Secretary of State of Delaware. Confirmation has also been obtained from the New York State Department of State that Bluestone is registered to do business in New York. As supplemented, the Petition further includes verified statements from both Bluestone's president and secretary attesting that the company has received the necessary municipal consents from the proper authorities. Bluestone provides copies of the Road Use Agreements executed by the Town of Sanford and the Town of Windsor to demonstrate that those municipal consents have been given.

In addition, the Commission finds sufficient information in the Petition to conclude that Bluestone is

¹⁰ PSL §68.

feasible from an economic perspective and capable of financing improvements to the Facility. Bluestone's upstream corporate affiliation with Northland Power will ensure adequate and timely access to capital. As noted above, Northland Power possesses cash-on-hand, as of March 31, 2020, of \$466 million and a \$741 million corporate credit facility, which, as of December 31, 2019, had \$321 million of credit available. Northland Power's cash on hand is uncommitted and available immediately. Borrowings under Northland Power's corporate credit facility are typically completed in two to three days, and common and/or preferred equity can be raised in as little as two weeks. Northland Power has been able to raise over \$1.3 billion in equity capital since 2015 to expand its generation and utility businesses in its target jurisdictions.

Bluestone plans to finance construction of the Facility through a combination of balance sheet, construction loans, or other financing mechanisms. The Facility would realize income from the sale of energy pursuant to a long-term off-take agreement and the sale of environmental attributes (e.g., Renewable Energy Credits). Bluestone's award from NYSERDA will further support the economic viability of the Facility, including 6.2 MW of energy storage. The economic feasibility of Bluestone also supports the Commission's finding that the company will be able to render safe, adequate, and reliable service. Northland Power's experience developing and operating other projects, particularly wind generation, is expected to contribute to the provision of such service by Bluestone.

Regarding rates, we note that Bluestone will operate on a merchant basis in competitive wholesale markets administered by the NYISO. The NYISO market rules approved by

the Federal Energy Regulatory Commission are designed to ensure just and reasonable rates.¹¹ As a merchant developer, Bluestone will not have captive ratepayers so it will bear the financial risk associated with the Facility.

In considering whether the issuance of a CPCN is consistent with the public interest, the Commission is particularly cognizant of the potential for an entity to improperly exercise horizontal or vertical market power. Here, Petitioner reports that, in addition to the 124 MW Bluestone and 100 MW High Bridge Wind projects, Northland recently purchased the 100 MW Ball Hill Wind Project in Chautauqua County, New York, and the transaction is pending certain regulatory approvals to close. The Bluestone, High Bridge, and Ball Hill Wind projects (assuming it closes) would represent Northland Power's first projects in the United States. The combined amount of these facilities (approximately 324 MW) would represent less than 1% of the State's overall generating capacity and therefore would not raise potential horizontal market power issues.¹² While Bluestone is affiliated with

¹¹ Case 18-E-0399, Cassadaga Wind LLC, Order Granting Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (issued November 15, 2018) (noting that effective competition in wholesale electric markets supports just and reasonable rates), p. 24.

¹² See, NYISO 2020 Load and Capacity Data Report (released April 2020), available at <https://www.nyiso.com/documents/20142/2226333/2020-Gold-Book-Final-Public.pdf/> (reporting that existing summer 2020 New York Control Area installed generating capacity, as of March 15, 2020, was 40,191 MW); see also, Case 13-M-0004, EIF BNY LLC, et al., Declaratory Ruling on Review of an Acquisition and Stock Transaction (issued February 15, 2013); Case 14-E-0022: MACH Gen, LLC et al., Order Approving Transfers of Ownership Interests and Making Other Findings (issued April 25, 2014).

NPEMUS, a power marketer, the Petition reports that NPEMUS does not engage in sales to New York ratepayers. Moreover, NPEMUS does not own or control electric generation, transmission, or distribution facilities in the United States and does not hold a franchise, service territory, or native load obligation within the United States. The Commission recently considered these circumstances and found that Northland's affiliation with NPEMUS does not pose the potential for the exercise of horizontal or vertical market power.¹³ Regardless, as noted below, the Commission will retain jurisdiction under the PSL such that marketer affiliations may be addressed through PSL §§110(1) and (2).

The public comments provided during the Public Statement Hearing and in response to the SAPA Notice do not dispute these matters. Specifically, the comments in opposition pertaining to the potential public health, environmental, social, and/or economic impact that might result from the Facility have been addressed in the PSL Article 10 proceeding. The opposition to approval of the CPCN and lightened regulation appears to be based on the general opposition to the Facility, either because it is not needed or would cause significant adverse impacts to the human and natural environment. Therefore, these issues are beyond the scope of this proceeding and will not be considered further.

Based on the above findings and considerations, the Commission concludes, after due hearing held on September 12, 2019, that the issuance of a CPCN for Bluestone is in the public interest and that the Facility is convenient and necessary for

¹³ Case 20-E-0230, Bluestone Wind, LLC, et al., Declaratory Ruling on Review of Transfer Transaction (issued July 17, 2020).

the public service. As the Siting Board found, after considering an extensive record, the Facility is consistent with the State's renewable energy policies and long-range planning objectives and strategies contained in the most recent State Energy Plan.¹⁴

Lightened Ratemaking Regulation

The lightened regulatory regime that Bluestone requests be applied to its wholesale electric operations is similar to that afforded to other comparably situated wholesale generators. Its request is therefore granted, to the extent discussed below.

In interpreting the PSL, the Commission has examined what reading best carries out the statutory intent and advances the public interest. The Commission thus concluded previously that new forms of electric service providers participating in competitive wholesale markets would be lightly regulated.¹⁵ Under this approach, PSL Article 1 applies to Bluestone because it meets the definition of an electric corporation under PSL §2(13) and will be engaged in the manufacture of electricity under PSL §5(1)(b).¹⁶ It is therefore subject to provisions, such as PSL §§11, 19, 24, 25, and 26, that prevent producers of electricity from taking actions that are contrary to the public interest.

¹⁴ PSL Article 10 Order, pp. 86-87.

¹⁵ Case 98-E-1680, Carr Street Generation Station, L.P., Order Providing for Lightened Regulation (issued April 23, 1999) (Carr Street Order); Case 91-E-0350, Wallkill Generating Company, Order Establishing Regulatory Regime (issued April 11, 1994) (Wallkill Order).

¹⁶ Transfer Ruling at 8-9 (finding that Cassadaga currently is an electric corporation).

All of Article 2 is restricted by its terms to the provision of service to retail residential customers, and so is inapplicable to wholesale generators like Bluestone. Certain provisions of Article 4 are also inapplicable because they are restricted to retail service.¹⁷

It was decided in the Carr Street and Wallkill Orders that the remaining provisions of Article 4 would pertain to wholesale generators.¹⁸ Application of these provisions is deemed necessary to protect the public interest. The Article 4 provisions, however, are implemented in a fashion that limits their impact on the operation of competitive electric markets. Under PSL §66(6), wholesale generators satisfy annual report filing requirements through a format designed to accommodate their particular circumstances.¹⁹ Filings required under other provisions of Article 4 are reviewed with the scrutiny commensurate to the level the public interest requires. This analysis of Article 4 adheres to Bluestone.

Regarding PSL §69, prompt regulatory action is possible through reliance on representations concerning proposed financing transactions. Additional scrutiny is not required to protect captive New York ratepayers, who cannot be harmed by the

¹⁷ See, e.g., PSL §§66(12) (optional tariff filings); §66(21) (retail electric corporation storm plans); §67 (inspection of increased fuel cost); §75 (excessive charges); and, §76 (rates charged to religious bodies).

¹⁸ PSL §68 provides for certification of the construction of new plant or the retailing of electricity to customers via direct interconnections. PSL §69, §69-a, and §70 provide for the review of securities issuances, reorganizations, and transfers of securities or works or systems, respectively.

¹⁹ Case 11-M-0295, Annual Reporting Requirements, Order Adopting Annual Reporting Requirements Under Lightened Ratemaking Regulation (issued January 23, 2013).

terms arrived at for these financings because lightly regulated participants in competitive markets bear the financial risk associated with their financial arrangements.²⁰

Regarding PSL §70, it was presumed in the Carr Street and Wallkill Orders that "regulation does not adhere to transfer of ownership interests in entities upstream from the parents of the New York competitive electric generation subsidiary, unless there is a potential for harm to the interests of captive utility ratepayers sufficient to override the presumption."²¹ In those Orders, however, wholesale generators were also advised that the potential for the exercise of market power arising out of an upstream transfer would be sufficient to defeat the presumption and trigger PSL §70 review. Bluestone may avail itself of this presumption. Under PSL §§66(9) and (10), we may require access to records sufficient to ascertain whether the presumption remains valid.

Several provisions of PSL Article 6 adhere only to the rendition of retail service. These provisions do not pertain to Bluestone because it will not engage in the generation of electricity for retail sales.²² Moreover, application of PSL §115, on requirements for the competitive bidding of utility purchases, is discretionary and will not be imposed on wholesale generators. In contrast, PSL §119-b, which pertains to the

²⁰ See, e.g., Case 10-E-0405, NRG Energy, Inc., Order Approving Financing (issued November 18, 2010); Case 01-E-0816, Athens Generating Company, L.P., Order Authorizing Issuance of Debt (issued July 30, 2001).

²¹ Carr Street Order at 8; Wallkill Order at 9.

²² See, e.g., PSL §112 (rate order enforcement); §113 (reparations and refunds); §114 (temporary rates); §114-a (lobbying cost sin rates); §117 (consumer deposits); §118 (bill payments via an agency); §119-a (use of utility poles and conduits); and, §119-d (tax benefits in rates).

protection of underground facilities from damage by excavators, adheres to all persons, including wholesale generators.

The remaining provisions of Article 6 need not be imposed generally on wholesale generators.²³ These provisions were intended to prevent financial manipulation or unwise financial decisions that could adversely impact rates charged by monopoly providers. In comparison, so long as the wholesale generation market is effectively competitive, wholesale generators complying with tariffs approved by the Federal Energy Regulatory Commission, such as Bluestone, will provide just and reasonable rates and cannot raise prices even if their costs rise due to poor management. Moreover, imposing these requirements could interfere with wholesale generators' plans for structuring the financing and ownership of their facilities. This could discourage entry into the wholesale market or introduce inefficiencies into market operations to the detriment of the public interest.

As discussed in the Carr Street Order, however, market power issues may be addressed under PSL §§110(1) and (2), which afford us jurisdiction over affiliated interests. Bluestone is affiliated with NPEMUS, a power marketer, although NPEMUS does not engage in sales to New York ratepayers. Consequently, we impose the requirements of PSL §§110(1) and (2) on Bluestone only conditionally, to the extent a future inquiry into its relationships with an affiliate becomes necessary.

Finally, notwithstanding that it is lightly regulated, Bluestone is reminded that it and any other entities that

²³ These requirements include approval of: loans under §106; the use of utility revenues for non-utility purposes under §107; corporate merger and dissolution certificates under §108; contracts between affiliated interests under §110(3); and, water, gas, and electric purchase contracts under §110(4).

exercise control over Facility operations remain subject to the PSL with respect to matters such as enforcement, investigation, safety, reliability, and system improvement, and the other requirements of PSL Articles 1 and 4, to the extent discussed above and in previous Orders.²⁴ Included among these requirements are the obligations to conduct tests for stray voltage on all publicly accessible electric facilities,²⁵ to give notice of generation unit retirements,²⁶ and to report personal injury accidents pursuant to 16 NYCRR Part 125. These conditions further ensure Bluestone will render safe, adequate, and reliable service.

Environmental Review

A comprehensive environmental review of the construction and operation related impacts of the Facility was conducted pursuant to PSL Article 10.²⁷ The granting of a PSL Article 10 CECPN is specifically listed as a Type II action exempt from review under the State Environmental Quality Review Act (SEQRA).²⁸ The record in the PSL Article 10 proceeding contains extensive information regarding the potential

²⁴ See, e.g., Case 16-E-0409, Indeck Corinth Limited Partnership, Order Providing for Lightened Regulation (issued December 21, 2016).

²⁵ Case 04-M-0519, Safety of Electric Transmission and Distribution Systems, Order Instituting Safety Standards (issued January 5, 2005), and Order on Petitions for Rehearing and Waiver (issued July 21, 2005).

²⁶ Case 05-E-0889, Generation Unit Retirement Policies, Order Adopting Notice Requirements for Generation Unit Retirements (issued December 20, 2005).

²⁷ PSL Article 10 Order.

²⁸ See, Environmental Conservation Law §8-0111(5)(b); 6 NYCRR 617.5(c)(35); City of New York v. TransGas Energy Servs. Corp., 34 A.D.3d 466, 470 (2d Dep't 2006).

environmental impacts of the Facility. The PSL Article 10 CECPN addresses the potential environmental impacts, and provides protective measures tailored to avoid, minimize, and mitigate the environmental impacts. The granting of a CPCN, as provided herein, is an activity undertaken in relation to the PSL Article 10 CECPN. In this context, these activities are not subject to the requirements of SEQRA.²⁹ Accordingly, a separate environmental review under SEQRA is not warranted in connection with Bluestone's petition for a CPCN.

CONCLUSION

The Commission finds that Bluestone has demonstrated its financial viability to construct and operate the Facility, and that the issuance of a CPCN is in the public interest. The Commission also grants Bluestone's request for a lightened regulatory regime in connection with its ownership and operation of the Facility.

The Commission orders:

1. A Certificate of Public Convenience and Necessity is granted to Bluestone Wind LLC pursuant to Public Service Law section 68, as discussed in the body of this Order.
2. Bluestone Wind LLC shall comply with the Public Service Law in conformance with the requirements set forth in the body of this Order.
3. Bluestone Wind LLC shall, within 30 days of the issuance of this Order, file with the Secretary a verified written statement signed by a duly authorized officer indicating Bluestone Wind LLC's complete and unconditional acceptance of

²⁹ 6 NYCRR §617.2(b)(1).

this Order and its terms and conditions. Failure to comply with this condition shall invalidate this Order.

4. In the Secretary's sole discretion, the deadline set forth in this Order may be extended. Any requests for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

5. This proceeding shall be closed upon compliance with Ordering Clause No. 3.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary