

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits, Region 3
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Department of
Environmental
Conservation

May 20, 2022

VIA EMAIL

Marc Duquette
Cricket Valley Energy Center, LLC
2241 St Rte 22
Dover Plains, NY 12522
mduquette@advancedpowerna.com

Re: Cricket Valley Energy Center
DEC Permit ID#: 3-1326-00275/00009
Dover, Dutchess County
Request for Additional Information

Dear Marc Duquette:

As you may know, the Climate Leadership and Community Protection Act (CLCPA) became effective January 1, 2020. (Chapter 106 of the Laws of 2019). Among other requirements, the CLCPA directs state agencies to determine if the decisions they make are consistent with the Statewide greenhouse gas (GHG) emission limits established by the CLCPA in Environmental Conservation Law (ECL) Article 75. In the case of the DEC, this includes determining if permits issued are consistent with or would interfere with the attainment of the Statewide GHG emission limits in ECL Article 75.

To address Section 7(2) of CLCPA, please identify each GHG and calculate the project's potential to emit GHG in units of tons per year and carbon dioxide equivalents using the 20-year global warming potentials found in 6 NYCRR Section 496.5. The CLCPA analysis should also include calculations showing the project's projected GHG and CO₂e emissions in the years 2030 and 2050 if possible. For purposes of the CLCPA, Statewide GHG emissions include "upstream" out-of-state GHG emissions associated with the generation of electricity imported into the State, or the extraction, transmission, and use of fossil fuels imported into the State. Accordingly, please include any upstream emissions in the calculations. The Department has developed the attached document titled, "Emission Factors for Use by State Agencies and Applicants," which includes upstream emission factors for facilities to use as they prepare analyses. As explained in the attached document, the values are intended to be presumptive, meaning a facility may use a different value in a given context, provided that it is supported by an appropriate justification in the analysis.



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Pursuant to ECL Article 75, the CLCPA's Statewide GHG emission limits require a Statewide reduction in GHG emissions from 1990 levels of 40% by 2030 and 85% by 2050. Further, CLCPA requires that the energy generation sector be zero-emissions by 2040. Please discuss how the emissions from this facility will be mitigated or reduced consistent with these requirements. If there are no feasible ways to reduce GHGs, please explain that, too. If GHG emissions will not be consistent with the Statewide GHG emission limits of the CLCPA, then we may need to discuss this further.

To address Section 7(3) of CLCPA, the DEC is required to prioritize the reduction of GHG emissions and co-pollutants in Disadvantaged Communities. Please see <https://climate.ny.gov/Our-Climate-Act/Disadvantaged-Communities-Criteria> for more information on draft Disadvantaged Communities and a link to an interactive map of communities that meet the draft Disadvantaged Communities criteria.¹ Co-pollutants are defined as hazardous air pollutants (HAPs) that are emitted by GHG sources. A GHG source is a piece of equipment or a facility that emits GHG. If this project is in, or potentially impacts, a Draft Disadvantaged Community, as identified by the New York State Climate Justice Working Group, please calculate the co-pollutant emissions from each GHG source and discuss any alternatives or mitigation measures that will be used to reduce the impact of those emissions on the facility's neighbors. If you conclude that existing measures are enough to mitigate these impacts, that should be discussed as well.

If you have any technical questions about these comments, please contact Alyssa Carbone of the DEC Division of Air Resources at alyssa.carbone@dec.ny.gov.

Sincerely,



Carrie Mackey
Division of Environmental Permits

Ecc: Alyssa Carbone, NYSDEC Division of Air Resources
Dane Anderson, EthosEnergy Group

¹ As indicated on the website, public comments on the draft disadvantaged communities criteria are currently being accepted through July 7, 2022. While the draft criteria may be utilized at this time, once finalized, applicants will be required to utilize the final version of identified disadvantaged communities for purposes of addressing Section 7(3) of CLCPA.