



# **EAST POINT ENERGY CENTER**

**Case No. 17-F-0599**

**1001.32 Exhibit 32**

**State Laws and Regulations**

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## Exhibit 32: State Laws and Regulations

This Exhibit will track the requirements of proposed Stipulation 32, dated August 20, 2019, and therefore, the requirements of 16 NYCRR § 1001.32.

### 32(a) State Approvals, Consents, Permits, Certificates, or Other Conditions of a Procedural Nature

The Applicant has compiled a list of state approvals, consents, permits, certificates, or other conditions of a procedural nature that are applicable to the construction or operation of the Project (see Table 32-1 below). These state requirements are supplanted by PSL Article 10 unless the Board expressly authorizes the exercise of such authority by the state agency.

**Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature**

Permit/Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
Stormwater Permit for Discharges from Construction Activity (SPDES GP-0-15-002 or that in effect at time of construction)	NYSDEC	Soil disturbance of 1 or more acre	Preparation of a SWPPP	Applicant will submit a Final SWPPP to the Secretary of the Department of Public Service Staff; submit NOI to NYSDEC at least five days prior to construction.
Water Quality Certification (Section 401 of Clean Water Act [CWA])	NYSDEC	Projects that will result in the discharge of dredged or fill material into Waters of the United States (WOTUS)	Wetland and waterbody delineations for this application were completed in July 2017, August 2018, and May 2019	Issuance will be coordinated as part of the Article 10 process.
Historic Preservation Act (Section 14.09)	SHPO	Project must go through review/consultation to determine whether it will	Phase I Assessment	Project has been preliminarily reviewed on SHPO CRIS; Phase IA and IB review

**Table 32-1. State Reviews, Permits, and Approvals of a Procedural Nature**

Permit/Clearance	Regulatory Agency	When Required	Potential Studies & Application Requirements	Status
		affect historic or culturally significant properties		coordinated with Article 10 process.
Agricultural and Markets Law – Article 25-AA	NYSDAM	Consultation required as Project is located within certified Agricultural Districts	Review of Agricultural District Mapping & Coordination with NYSDAM	Consult with NYSDAM for recommendations on how to minimize impacts to agricultural operations as part of the Project. Consultation will be incorporated into the Article 10 process.
Interconnection Studies	NYISO	Interconnection Required	SRIS complete.	Interconnection request submitted 3/24/2017.
Highway Work Permits	NYSDOT	Required for overhead or underground crossings of state highways, access roads from state highways, and temporary widening of intersections at state highways	Complete Standard Permit Application	Approved once routes are final; anticipated immediately prior to start of construction

The Applicant intends to build and operate the Project in accordance with state laws and regulations as described in this Application. In addition to the Article 10 Application, the Applicant will comply with other requirements set forth in the Article 10 Certificate conditions for the Project.

**32(b) List of State Procedural Requirements**

At this time, the Applicant anticipates that the NYSDOT Highway Work Permits will be issued by NYSDOT and not be issued by the Department of Public Service Staff. The Applicant hereby requests that the Board authorize NYSDOT to exercise their authority to issue all required approvals.

**32(c) State Approvals, Consents, Permits, Certificates, or Other Conditions of a Substantive Nature**

The Applicant has compiled a list of state approvals, consents, permits, certificates, or other conditions of a substantive nature that are applicable to the construction or operation of the Project (see Table 32-2 below). The Applicant intends to comply with the substantive requirements as outlined in Table 32-2 below.

**32(d) Summary Table of All State Substantive Requirements**

**Table 32-2. Summary of State Substantive Requirements**

Provision	Degree of Compliance
Water Quality Certification (WQC). Section 401 of the CWA 6 NYCRR Part 621.4e (Water Quality Certifications in Accordance with Section 401 of the Clean Water Act)	The Applicant anticipates to fully comply.
Consultation Pursuant to §14.09 of the New York State Historic Preservation Act 9 NYCRR Part 428 (State Agency Activities Affecting Historic or Cultural Properties)	The Applicant anticipates to fully comply.
Permit for Freshwater Wetlands Article 24, 6 NYCRR Part 663.5 (Standards for Issuance of Permits and Letters of Permission)	The Applicant anticipates to fully comply.
SPDES General Permit for Construction Activity Article 3, 6 NYCRR Part 750-1.11 (Application of Standards, Limitations, and other Requirements)	The Applicant anticipates to fully comply.

**Table 32-2. Summary of State Substantive Requirements**

<b>Provision</b>	<b>Degree of Compliance</b>
Special Hauling Permit Section 385 of the New York State Vehicle and Traffic Law	If required, the Applicant anticipates to fully comply.

**32(e) List of State Approvals, Consents, Permits, Certificates, or Other Conditions for Offsite Components**

The Applicant has not identified any additional state approvals, consents, permits, certificates, or other conditions for proposed offsite interconnections and ancillary features.

## **References**

New York State Department of Environmental Conservation. 2019. Stormwater Permit for Construction Activity. Retrieved from: <https://www.dec.ny.gov/chemical/43133.html>

New York State Department of Environmental Conservation. 1997, May. Article 24 Freshwater Wetlands, Title 23 of Article 71 of the Environmental Conservation Law. Retrieved from: [https://www.dec.ny.gov/docs/wildlife\\_pdf/wetart24b.pdf](https://www.dec.ny.gov/docs/wildlife_pdf/wetart24b.pdf)

New York State Parks, Recreation, and Historic Preservation. 2019. Federal and State Preservation Legislation. Retrieved from: <https://parks.ny.gov/shpo/environmental-review/preservation-legislation.aspx>

United States Environmental Protection Agency. 2019, May 9. Clean Water Act Section 401: State Certification of Water Quality. Retrieved from: <https://www.epa.gov/cwa-401/clean-water-act-section-401-state-certification-water-quality>