Alternatives Analysis

* The alternatives analysis is the heart of SEQRA, and this section of the Draft Scope is inadequate. 6 NYCRR § 617.11(5) requires the lead agency to “certify that consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable. Under § 617.9(b)(1), an Environmental Impact Statement (EIS) must consider all reasonable alternatives and choose one which minimizes or avoids adverse environmental impacts to the maximum extent practicable.
* 6 NYCRR 617.8(f)(5) requires that the final written scope for an EIS include “the reasonable alternatives to be considered”. The current description of alternatives only discusses the required “No Action” alternative, availability of alternative sites and alternative site plans and facility designs. SEQRA regulations require that the draft EIS describe and evaluate "the range of reasonable alternatives to the action that are feasible, considering the objectives and capabilities of the project sponsor." This includes alternative sites, technologies, uses, and scale.
* The alternatives analysis should consider whether the stated purpose of the plant to provide frequency regulation and integration of variable renewable generation could be achieved with fewer environmental impacts by utilizing other technologies and project types, including a standalone battery storage facility and a solar facility coupled with battery storage. The viability of these proposals should be considered in the context of New York State’s upcoming rulemaking to incentivize battery storage facilities in the state to reach the target of 1500 MW of energy storage by 2025.

Visual Analysis

* In addition to the visual impact of the plant and its exhaust stack, the EIS must also evaluate the visual impact of the plume that would result from the exhaust. The worst-case meteorological conditions and varying wind directions and conditions should be modeled.
* In addition to the points listed in the Draft Scope, the visual impact assessment must include multiple viewpoints from the Hudson River National Historic Landmark District and the Estates District Scenic Area of Statewide Significance (“SASS”).

Climate Change and GHG Emissions

* The EIS must undertake a thorough evaluation of cradle-to-grave greenhouse gas (“GHG”) emissions, taking into account the facility’s maximum potential to emit based on the plant operating 24/7. The Draft Scope states that the facility will “be available to the electric grid 24 hours a day and will operate based on the needs of the grid”, so the impacts of this maximum potential operation must be evaluated in the EIS.
* The GHG emissions impacts of burning the backup diesel fuel must be evaluated in the EIS, since a natural gas interruption would result in using diesel fuel.
* As a new natural gas generation plant in the region, the project will impact the local use and conservation of energy. This impact must be evaluated in the EIS.
* The applicant claims that the project will help integrate renewable energy resources onto the grid and therefore will help reduce GHG emissions. This claim must be thoroughly and objectively evaluated, from both a local and statewide perspective.

Other Air Emissions

* Air emissions modeling and studies should evaluate the maximum potential to emit and related impacts on the environment and public health. These studies should be completed for both the burning of natural gas and the burning of diesel. In the absence of a permit limitation on the use of the diesel, it is possible that the plant could run primarily or exclusively on diesel if the natural gas supply is disrupted.

Fiscal Impact

* The fiscal impact analysis in the EIS should include a cost-benefit analysis for each jurisdiction impacted by the proposed project. Any fiscal benefits in the form of taxes or otherwise should consider any potential subsidies or payment in lieu of taxes (PILOT) agreements and costs should include the expense of emergency response and the impacts on the property values of the residents living adjacent to the plant site.

Cumulative Impacts

* The cumulative impacts analysis should include evaluation of cumulative impacts to the surrounding community character and public health and safety.

Threatened/Endangered Species

* The Draft Scope does not have a section for evaluating potential impacts on threatened or endangered species. There is priority habitat for the federally-threatened Northern Long-Eared bat within 1.5 miles of the project site, and the site is also within the range of the federally and state endangered Indiana Bat. Impacts to these and any other endangered/threatened species must be evaluated in the EIS

Project Purpose and Energy Benefits

* The stated benefits of the proposed plant should be fully analyzed, including the claim that the plant will assist in integrated renewables onto the grid and provide needed peak power generation. This analysis should look at both statewide benefits and local/regional benefits. The mid-Hudson Valley has seen declining peak electricity load so it is unlikely there is a need for additional peak capacity locally.

Compliance with Zoning

* Most of the project area is situated in the Office Manufacturing (OM) Zoning District. This EIS should evaluate whether the project complies with the maximum building height limitation for the O-M District in which the proposed project is located, which is 75 feet (Town of Ulster Zoning Code § 190-69). While Section 190-21 of the Town Zoning Code provides certain permitted height exceptions, including air-pollution abatement devices, this is only applicable where the height of such device does not exceed 10 percent (10%) of the building height. The EIS should describe whether the exhaust stack will exceed 10% of the building height.

We continue to believe additional time for public comment on the draft scope would be valuable. 6 NYCRR 617.3(i) provides that the applicant and the lead agency may, by mutual agreement, agree to extend the 60-day time period to issue the final scope. For particularly complex or sensitive projects, such an extended scoping timetable is frequently necessary to ensure that the final scope appropriately addresses all issues and study specifications. We urge the Town to explore with the applicant such an extension to the scoping period.