



May 4, 2021

VIA U.S. MAIL AND ELECTRONIC MAIL

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RE: Fortistar North Tonawanda, North Tonawanda, New York
Fortistar North Tonawanda, Inc.
Air Title V Facility Permit 9-2912-00059/00013

Dear Messrs. LaLone and Snyder:

We write to follow-up on our letter to you dated April 6, 2021 concerning the Greenidge Generating Station in Dresden, New York, where we also cited the Cayuga facility in Lansing, New York and the Somerset plant in Barker, New York as other potential power plant conversions to around-the-clock operations for off-grid power generation. Apr. 6, 2021 Letter at 4 & n. 13.¹

Since we submitted that letter, Fortistar North Tonawanda, Inc. has filed a petition with the New York Public Service Commission (“PSC”) seeking approval for the transfer of its Fortistar North Tonawanda facility to Digihost Technology, Inc., a blockchain company, which we enclose at Exhibit A.

¹ We enclose our April 6 letter again at Exhibit B for ease of reference.



According to reports, Digihost Technology, Inc. intends to use the 60 MW natural gas facility to produce its own power for on-site bitcoin mining, much like the Greenidge facility about which we wrote to you last month.²

Like the other existing and planned conversions of power plants for data mining centers, Fortistar North Tonawanda's operations threaten to undermine New York's Climate Leadership and Community Protection Act ("CLCPA") emissions reduction requirements. While Fortistar North Tonawanda should be accountable to the CLCPA timetable, the CLCPA regulations may not apply to the behind-the-meter mode of operation—although its greenhouse gas emissions will significantly contribute to the very problem that the CLCPA seeks to address. We ask that the DEC also take a hard look at Fortistar North Tonawanda's Air Title V Facility Permit, No. 9-2912-00059/00013, when it comes up for renewal in November 2021 in this regard.

As we stated in our April 6, 2021 letter, Greenidge is not an outlier, it is the beginning of a new business model that threatens the gains we are making toward New York's CLCPA goals. Fortistar North Tonawanda's operations too will exploit the regulatory loophole that permits behind-the-meter power generation to significantly increase GHG emissions in New York State.

Sincerely,

/s/ Mandy DeRoche

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² See Ex. A & also, e.g., *Digihost Acquires 60 MW Power Plant Increasing Hashrate Capacity to 3 EH*, GlobeNewsWire Canada (Mar. 24, 2021), <https://energycentral.com/news/digihost-acquires-60-mw-power-plant-increasing-hashrate-capacity-3-eh>; *Bitcoin Miners Scout for Site in Watkins Glen; Canadian Bitcoin Miner Buys Power Plant Near Buffalo*, Waterfront Online (Apr. 16, 2021), <https://waterfrontonline.blog/2021/04/16/bitcoin-miners-scout-for-site-in-watkins-glen-canadian-bitcoin-miner-buys-power-plant-near-buffalo/>.



cc:

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Exhibit A

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Fortistar North Tonawanda LLC and
Digihost International Inc. for Declaratory Ruling
Regarding Application of Sections 70 and 83 of
the New York State Public Service Law, and, in
the Alternative, Approval of the Proposed
Transaction Pursuant to Sections 70 and 83

Case 21-M-_____

**PETITION FOR DECLARATORY RULING REGARDING APPLICATION
OF SECTIONS 70 AND 83 OF THE NEW YORK STATE PUBLIC SERVICE
LAW, AND, IN THE ALTERNATIVE, APPROVAL UNDER SECTIONS 70 AND 83**

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Dated: April 15, 2021

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Fortistar North Tonawanda LLC and
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Regarding Application of Sections 70 and 83 of
the New York State Public Service Law, and, in
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**PETITION FOR DECLARATORY RULING REGARDING APPLICATION
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I. INTRODUCTION

Pursuant to Part 8 of the Rules and Regulations of the New York State Public Service Commission (“Commission”), 16 NYCRR Part 8, Fortistar North Tonawanda LLC (“FNT”) and Digihost International Inc. (“Digihost”) (collectively, the “Petitioners”) hereby petition the Commission for a declaratory ruling that the proposed transfer of the upstream ownership interests in FNT requires no further review under Sections 70 and 83 of the New York Public Service Law (“PSL”). Specifically, Digihost will acquire, indirectly, all of the ownership interests of FNT (the “Transaction”)—the direct owner of a natural gas-fired cogeneration facility (the “Facility”) subject to the Commission’s lightened regulation.¹ In the alternative, the Petitioners request that the Commission approve the Transaction under PSL Sections 70 and 83 and any other statutory or regulatory provision deemed applicable.

¹ See Case 15-M-0642, *Petition of Fortistar North Tonawanda Inc. for Certificate of Public Convenience and Necessity Pursuant to Public Service Law § 81 and Petition for an Order Providing Lightened and Incidental Regulation*, Order Granting Certificates of Public Convenience and Necessity and Providing for Lightened and Incidental Regulation (Nov. 18, 2019) (“FNT Order”).

No competitive issues are raised by the Transaction nor will it cause any harm to the interests of captive utility ratepayers. The Transaction will not result in the potential to exercise either vertical or horizontal market power.

II. BACKGROUND

A. The Parties

1. FNT

FNT, a Delaware limited liability company, is the owner and operator of the Facility. FNT is wholly-owned by North Tonawanda Holdings LLC (“North Tonawanda Holdings”), which is wholly-owned by Generational Power LLC. Generational Power LLC is wholly-owned by Fortistar Projects LLC, which is wholly-owned by Fortistar LLC (“Fortistar”) except for a variable non-voting interest in Fortistar Projects LLC owned by FIP LLC. FIP LLC is a partnership owned by current and former Fortistar employees. Fortistar, a Delaware limited liability company, engages in the generation or sale of power only from, or has ownership interests only in the Facility and other electric facilities that are Qualifying Facilities, exempt wholesale generators, or foreign utility companies.

The Facility is a 55 MW natural gas-fired cogeneration facility located in North Tonawanda, New York. In the FNT Order, the Commission granted FNT certificates of public convenience and necessity (“CPCNs”) pursuant to Sections 68 and 81 of the PSL.² The Facility is interconnected with the transmission system of Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”) and sells energy, capacity, and ancillary services exclusively at wholesale. The Facility also is capable of delivering its thermal energy output through a 13,200-

² See *id.* at 16.

foot, 8-inch diameter steam pipe to a local greenhouse facility that produces vegetables, but, currently, the greenhouse facility is not purchasing thermal energy from the Facility.

2. Digihost

Digihost is a wholly owned subsidiary of Digihost Technology Inc. (“DTI”) formed for the purposes of acquiring the indirect ownership interests in FNT. DTI, a British Columbia company, is a publicly traded growth-oriented blockchain technology company primarily focused on cryptocurrency mining. Its subordinate voting shares are listed for trading on the TSX Venture Exchange under the symbol “DGHI”, and on the OTCQB under the symbol “HSSHF”. Michel Amar, a private individual, owns approximately 27% of the outstanding voting shares of DTI. No other shareholder of DTI owns more than 10% of the outstanding shares of DTI.

B. The Transaction

Pursuant to a member interest purchase agreement between North Tonawanda Holdings and Digihost, Digihost will acquire from North Tonawanda Holdings 100% of the membership interests in FNT. As a result of the Transaction, FNT will cease to be affiliated with Fortistar.

III. THE COMMISSION SHOULD DECLARE THAT THE WALLKILL PRESUMPTION APPLIES TO THE TRANSACTION AND DECLINE TO FURTHER REVIEW IT UNDER PSL § 70 AND § 83 OR, IN THE ALTERNATIVE, APPROVE IT UNDER PSL § 70 AND § 83.

PSL § 70 and § 83 impose nearly identical requirements requiring, *inter alia*, written consent of the Commission for transfer of a sufficiently controlling interest in electric and steam plants, respectively, including ownership transfer at a holding company (*i.e.*, upstream) level.³

³ See, e.g., Case 07-E-1385, *Calpine Corp. and LS Power Development*, Declaratory Ruling on Review of Stock Transfer and Acquisition Transactions (Jan. 22, 2008), at 15; Case 13-M-0028, *RED-Rochester LLC and Eastman Kodak Company - Petition for Approval to Transfer Regulated Utility Assets at Eastman Kodak Park, Approval to Transfer Certificates of Public Convenience and Necessity, for Continued Lightened and Incidental Regulation, Approval of Financing, and Authorization, to the Extent Necessary, for Submetering*, Order Approving Transfer

However, in the Wallkill Order, the Commission established a lightened regulatory regime for wholesale generators in New York under which PSL Section 70 review of changes in ownership is not required.⁴ With respect to transactions pursuant to both PSL § 70 and § 83, it was presumed in the Carr Street and Wallkill Orders that regulation would not adhere to the transfer of ownership interests in entities upstream from the parent of a New York competitive subsidiary, “unless there is a potential for harm to the interests of captive utility ratepayers sufficient to override the presumption” (the “Wallkill Presumption”).⁵ The Commission granted FNT such lightened regulation and afforded it the Wallkill Presumption for transfers of ownership interests in its upstream parent entities.⁶

In past decisions, the Commission has determined that the Wallkill Presumption applies to transactions involving upstream changes in control of lightly regulated entities and has declined to review those transactions under PSL Sections 70 and 83 when it has determined that the transactions would not provide the petitioners with the ability to exercise horizontal or vertical market power or to harm the interests of captive New York ratepayers.⁷ As discussed more fully above, the Transaction involves a change in the ownership interests in parent entities

Subject to Conditions Providing for Lightened Ratemaking Regulation, and Making Other Findings (May 30, 2013) (“RED-Rochester Order”) (confirmed by Case 13-M-0028, *supra*, Order Confirming Prior Order and Granting Certificates of Public Convenience and Necessity (June 13, 2013)).

⁴ Case 91-E-0350, *Wallkill Generating Company, L.P.*, Order Establishing Regulatory Regime (Apr. 11, 1994) (“Wallkill Order”); *see also* Case 14-E-0195, *Bayonne Energy Center, LLC et al.*, Order Modifying Lightened Ratemaking Regulation Authorizations and Approving Financing and Declaratory Ruling on a Transfer Transaction (Aug. 15, 2014).

⁵ RED-Rochester Order at 36 (quoting Case 98-E-1670, *Carr Street Generating Station, L.P.*, Order Providing For Lightened Regulation (Apr. 23, 1999) (“Carr Street Order”); Wallkill Order at 8).

⁶ FNT Order at 10.

⁷ *See, e.g.*, Case 12-M-0351, *Dynegy Inc. and Franklin Resources, Inc.*, Declaratory Ruling on Review of a Stock Acquisition Transaction (Sept. 14, 2012); Case 09-E-0055, *Constellation Energy Nuclear Group LLC et al.*, Declaratory Ruling on Review of a Transfer Transaction (Apr. 23, 2009); Case 06-M-0210, *Constellation Energy Group, Inc. and FPL Group, Inc.*, Declaratory Ruling on Review of Ownership Interest Transfer (July 25, 2006); RED-Rochester Order at 36..

upstream from the entity owning and operating a New York competitive cogeneration facility. Petitioners request that the Commission follow its precedent, continue to afford FNT the Wallkill Presumption, and issue a declaratory ruling stating that the Commission need not further review the Transaction described herein under PSL § 70 and § 83.

The Transaction does not create the potential for the exercise of horizontal or vertical market power. Digihost, its affiliates, and Michel Amar do not own or control, directly or indirectly, any facilities for the generation, transmission, distribution, or sale of electric or thermal energy, or have substantial influence over inputs, like fuel or fuel transportation, into the production of generation supply, in the United States.

Nor will the Transaction result in any adverse impacts to captive ratepayers in New York. There will be no change in the day-to-day operations of the Facility as result of the Transaction. NAES Corporation (“NAES”), a contract operator and maintenance provider to the Facility since May 2002, will continue in a similar capacity. NAES, an Issaquah, Washington based company, is an independent services provider with extensive experience in optimizing the performance of energy facilities across the power generation, oil and gas and petrochemical industries. In addition, since May 2002, Fortistar Services LLC (“FS”), a wholly owned subsidiary of Fortistar LLC, has provided general management and administrative services to FNT. FS will continue to provide energy market and fuel procurement consulting services to Digihost.

If the Commission decides to review the Transaction pursuant to PSL § 70 and § 83, the Commission should approve the Transaction as in the public interest for the reasons discussed above.

IV. CONCLUSION

WHEREFORE, Petitioners respectfully request that the Commission issue a declaratory ruling that further review of the Transaction is not required, or, in the alternative authorize the Transaction under PSL § 70 and § 83, without condition, as in the public interest. Petitioners respectfully request that the Commission issue an order no later than its June 17, 2021 session.

Dated: April 15, 2021

Respectfully submitted,

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of Fortistar North Tonawanda LLC and
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Case 21-M-_____

VERIFICATION

I, Michel Amar as CEO, of Digihost International Inc. do hereby affirm that the contents of this document are true to the best of my knowledge and belief.

Signed: _____
Date: April 14, 2021

STATE OF Calif)
COUNTY OF Los Angeles) ss.;

On this 14th day of April, 2021, before me, the undersigned notary public, personally appeared Michel Amar proved to me through satisfactory evidence of identification, which was Calif. (state form of Driver's License identification or state that the signer is personally known to the notary), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)/(she) signed it voluntarily for its stated purpose.

Yolanda Thunderwolf
Notary Public
My commission expires:

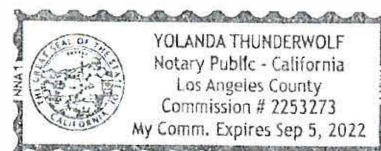


Exhibit B



April 6, 2021

VIA U.S. MAIL AND ELECTRONIC MAIL

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Jared Snyder
Deputy Commissioner, Air Resources, Climate Change and Energy
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RE: Greenidge Station, Dresden, New York
Greenidge Generation LLC
Air Title V Facility Permit 8-5736-00004/00017

Dear Mr. LaLone and Mr. Snyder:

The conversion of retiring, retired or peaking power plants for data centers, bitcoin mining, and the like threatens to sharply increase emissions of greenhouse gases in New York State, which is wholly inconsistent with the State's Climate Leadership and Community Protection Act ("CLCPA") emissions reduction requirements.¹

One of these bitcoin mining centers, on the shores of Seneca Lake, is in the midst of repowering behind-the-meter now, over the objections of the local community^{2 3}, and moving forward in what seems to be a gap in regulatory oversight by the State with regard to CLCPA compliance. The Department of Environmental Conservation ("DEC") must take strong action

¹ See, e.g., N.Y. Times, *Why Bill Gates Is Worried About Bitcoin : It's all about the carbon footprint.* (Mar. 9, 2021) <https://www.nytimes.com/2021/03/09/business/dealbook/bill-gates-bitcoin.html> ("Bitcoin uses more electricity per transaction than any other method known to mankind.")

² There are major concerns with the impacts of this facility on the waters of Seneca Lake. This letter addresses only concerns with the greenhouse gas increases at the facility with regard to the air permit, within the framework of the CLCPA.

³ Residents of Dresden and Torrey have already expressed their concerns about the environmental impacts of Greenidge's conversion via a September 15, 2020 letter to the DEC concerning the plant's existing permits.

to address power plants, like this one, from converting to around-the-clock operations for off-grid power generation.

The Title V permit for the Greenidge Generating Station in Dresden, New York (“Greenidge”) is up for renewal and we urge the DEC to scrutinize the permit – namely, to reject any version of this permit that will allow increased emissions of greenhouse gases (“GHGs”) and that will not reverse the current and troubling trend of increasing GHG emissions discussed below.

Greenidge’s current air permit, for its use as a peaker plant only, allows annual emissions of up to 641,878 tons of carbon dioxide equivalent (“CO₂eq”). In 2019, the Greenidge boiler alone—excluding emissions from auxiliary equipment like the diesel generator, diesel emergency fire pump, and natural gas heater—released 61,601 tons of CO₂eq, or 9.5 percent of the permit limit, while operating at just 5 percent of capacity (approx. 600,000 MWh).⁴

As of now, Greenidge allocates 19 of its 106 MW capacity to power 7,000 existing data mining units,^{5 6} in 2020. This output is several multiples over the plant’s 2019 output, consuming over a billion cubic feet of natural gas.

To put Greenidge’s emissions growth into context, 2020 air emissions data obtained pursuant to the Freedom of Information Law reveal that, in just one year, CO₂eq and NO_x emissions from the facility increased **ten-fold**. Greenidge’s emissions of CO₂eq went from 28,301 tons when bitcoin data mining first began at the facility in January 2020 to 243,103 tons in December 2020 and NO_x emissions jumped from 5.2 to 49.2 tons in that same period. That is despite the fact that in 2020, the plant only operated at 13% of its capacity.

Greenidge has proposed ramping operations up to 55 MW soon, which will result in boiler-alone emissions of 551,569 tons of CO₂eq, per year. If left unchecked, Greenidge will reach 106 MW capacity shortly, which will cause emissions to skyrocket to 1,063,024 tons of CO₂eq per year, or 165 percent of the existing permit limit. As a press release about Greenidge’s IPO recently noted, the company has no plans to slow down – it is actively expanding capacity at the site and beyond, noting that it hopes to have 500 MW of energy for bitcoin mining by 2025.⁷

⁴ Includes upstream natural gas emissions and assumes the 20-year Global Warming Potential (“GWP”) of methane (72) as per the CLCPA framework. Excluding upstream natural gas emissions and a GWP for methane of 25, Greenidge’s boiler emitted 34,098 tons of CO₂eq.

⁵ *NY gas plant adds cryptocurrency mining units*, S&P GLOBAL, Mar, 11, 2020, at <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/ny-gas-plant-adds-cryptocurrency-mining-units-57467392>.

⁶ Support.com, *Merger Announcement* (Mar. 22, 2021), <https://corporate.support.com/wp-content/uploads/2021/03/Greenidge-SPRT-Merger-Announcement-032221-FINAL.pdf>.

⁷ *See, e.g.*, at 14 (“Expansion to new sites: Active development pipeline of new sites expected to achieve at least 500 MW of mining by 2025; Active development pipeline of new sites expected to achieve at least 500 MW of mining by 2025; ...”); *Id.* at 30 (“Atlas Entities own and operate 1,164 MW (gross) of merchant power generation assets in New York and New England”)

In addition, Greenidge’s existing Title V Permit allows the plant to operate two diesel backup generators. We understand that to properly cool the thousands of data mining units, significant temperature control is needed onsite. Additional backup generators will likely be needed in the case of power outages or when the facility will need to send MWs to the grid to continue its obligations as a peaking unit, which will likely increase over time with extreme weather events. Moreover, most diesel generators will not just operate in outages or during peaking times, they also need to run regularly for maintenance. Additional diesel generators will increase GHGs and decrease local air quality even further than imagined above – the generators “can release 200 to 400 times as much smog-forming nitrogen oxides per megawatt as a new natural gas plant, and 10 times as much as a coal plant,” and there are toxic pollutants in the exhaust.⁸

When the DEC evaluates the renewal of the Title V permit at this facility, which has fundamentally changed its operations from a peaker plant to a 24/7 bitcoin mining data center, the DEC should take a hard look at its GHG emissions and whether changes in operating conditions are consistent with the CLCPA commitments, described more fully below.⁹ We also request that the DEC scrutinize the permit application and plant operations for possible triggering of new source review and prevention of significant deterioration requirements, due to the wholesale repurposing of this facility by its new owners.

In light of this possibly precedent-setting decision and the projected increases of GHGs on the site, the DEC should require that the facility prepare a public participation plan for public outreach about the Title V permit application, per 6 NYCRR Section 621.3(a)(3). The DEC must allow for the participation of interested community members and groups, as well as those directly impacted by the facility, for a full and accurate environmental impact assessment. We request that the DEC initiate a review pursuant to the State Environmental Quality Review Act (“SEQRA”) for the Title V permit assessment, serve as lead agency, and initiate a full Environmental Impact Statement (“EIS”).

We also request that the DEC hold an adjudicatory hearing under 6 NYCRR Section 624 to determine “whether the department’s review raises substantive and significant issues” and “where any comments received from members of the public or other interested parties raise substantive and significant issues relating to the application.” 6 NYCRR § 621.8(b).

⁸ *Dirty diesel generators test EPA, demand-response industry*, E&E News, Jul. 10, 2012, at <https://www.eenews.net/stories/1059967047>.

⁹ *Gas plant permit policy still murky*, Politico, Jan. 27, 2021, (“We have the ability to ask questions of project proponents pursuant to CLCPA,” Seggos responded. “We’re making sure we’re asking the important climate questions so we don’t have a regrets scenario.”), at <https://subscriber.politicopro.com/states/new-york/city-hall/whiteboard/2021/01/27/gas-plant-permit-policy-still-murky-9425259>.

THE SCOPE OF THE PROBLEM ACROSS NEW YORK STATE

The DEC's action on the Title V permit for Greenidge will likely have far-reaching impacts across the state. Operators of data centers and bitcoin mining units are hungry for space and fossil fuels. "In 2014, data centers in the U.S. consumed an estimated 70 billion kWh, representing about 1.8% of total U.S. electricity consumption...U.S. data centers are projected to consume approximately 73 billion kWh in 2020."¹⁰

The scope of the problem in New York may be significant. Greenidge aims to help other power generators in the so-called blockchain ecosystem to replicate its model.¹¹ And the Greenidge power plant is one of nearly 30 power plants in upstate New York with the potential to be converted to full-time operation for Bitcoin mining and other high-energy data tasks.¹²

At present, at least two of the region's power plants are proceeding with plans for full-time data center conversion. For example, Beowulf Energy, which owns the Cayuga facility in Lansing, New York and the Somerset plant in Barker, New York, has plans to convert the facilities to data centers that would operate at 500 MW and 100 MW, respectively.¹³ If approved, these two plants in Lansing and Barker could operate at a combined maximum capacity that is six times that of Greenidge. The GHG emissions from these two plants alone could be over **6 million tons** of CO₂eq.

Other towns in New York State have already grappled with this problem. For example, due to increased GHG emissions and increased demand for electricity to power these data centers, electricity prices for residential customers increased as well, prompting at least one local utility in Plattsburgh, New York to declare a moratorium on Bitcoin data mining operations.¹⁴ We encourage the state to comprehensively address this looming threat to CLCPA compliance, rather than leaving it to town-by-town fights.

MEETING OUR CLCPA COMMITMENTS WILL BE DIFFICULT IF FACILITIES LIKE THIS CONTINUE TO BE PERMITTED AS A MATTER OF COURSE

Additional scrutiny of the Greenidge air permit under the CLCPA is essential to prevent the floodgates opening for other retiring power plants or peaker plants to follow Greenidge's

¹⁰ See n.1., see also Inês Azevedo et al., *United States Data Energy Usage Report*, ERNEST ORLANDO LAWRENCE BERKELEY NATIONAL LABORATORY (June 2016), <https://eta.lbl.gov/publications/united-states-data-center-energy>.

¹¹ Support.com, *Merger Announcement*, at 14 (Mar. 22, 2021), <https://corporate.support.com/wp-content/uploads/2021/03/Greenidge-SPRT-Merger-Announcement-032221-FINAL.pdf>.

¹² See U.S. Energy Information Administration Form 860 (2019) (reviewing power plants that are retired or will be retiring, or are peaker plants with excess generation capacity) at <https://www.eia.gov/electricity/data/eia860/>.

¹³ *Our Projects*, BEOWULF ENERGY (Feb. 8, 2021), <http://beowulfenergy.com/our-projects/>.

¹⁴ Peter Maloney, *Bitcoin Mining Helps Boost a Growing Data Center Market*, ENGINEERING NEWS-RECORD (Nov. 18, 2020), <https://www.enr.com/articles/50762-bitcoin-mining-helps-boost-a-growing-data-center-market>.



example. Without it, the state would face grave challenges to meeting the CLCPA requirements for reductions in New York’s carbon emissions of 40 percent by 2030 and 85 percent by 2050.

Greenidge’s new operations may also be non-compliant with and may undermine CLCPA energy source regulations, which require that 70 percent of the electricity generated in New York come from clean energy sources by 2030, and 100 percent by 2040. These targets apply to load serving entities that send power to the grid. All power produced by Greenidge serves the bitcoin data mining center exclusively and does not reach the grid, *i.e.*, Greenidge operates behind-the-meter. While Greenidge should be accountable to the CLCPA timetable, the CLCPA regulations may not apply to the behind-the-meter mode of operation—although emissions will significantly contribute to the very problem that the CLCPA seeks to address.

* * * * *

The DEC must take action on Greenidge to prevent the increased GHG emissions from these 24/7 data centers from overwhelming New York’s CLCPA goals. We ask the DEC to strongly consider the following, to make sure this plant does not fall in the regulatory loophole it seems to be exploiting, where neither the DPS nor the DEC can prevent a rapid escalation of GHG emissions from this power plant (and perhaps others soon behind it):

1. Initiate and lead a full EIS under SEQRA before issuance of any the air permit renewal for the Greenidge plant;
2. Require Greenidge to prepare a public participation plan for public outreach about the Title V permit application, per 6 NYCRR Section 621.3(a)(3);
3. Impose new limits on Greenidge’s Title V permit to reduce GHG emissions as much as possible, to be more in line with its service to the grid as peaking unit;
4. Review Greenidge’s operations to see if additional air quality requirements apply, such as a new source review/prevention of significant deterioration requirements, or additional limits on its use of diesel generators on-site;
5. Initiate and lead an adjudicatory hearing under 6 NYCRR Section 624.

Thank you for your consideration. Please contact either of us with any questions.

Sincerely,

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