

Young / Sommer LLC

ATTORNEYS AT LAW

EXECUTIVE WOODS, FIVE PALISADES DRIVE, ALBANY, NY 12205
Phone: 518-438-9907 • Fax: 518-438-9914

www.youngsommer.com

Writer's Telephone Extension: 274
swilson@youngsommer.com

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VIA ELECTRONIC FILING

Hon. Michelle Phillips, Secretary
NYS Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case 10-T-0139: Application of Champlain Hudson Power Express, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the PSL for the Construction, Operation and Maintenance of a High Voltage Direct Current Circuit from the Canadian Border to New York City.

Dear Secretary Phillips:

On April 18, 2013, the New York State Public Service Commission (the "Commission") issued to Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (the "Applicants") a Certificate of Environmental Compatibility and Public Need ("Certificate"), pursuant to Article VII of the Public Service Law ("PSL"), to construct and operate an electric transmission project known as the Champlain Hudson Power Express Project (the "Project").¹ The Certificate was amended by Commission Orders issued in this proceeding on March 20, August 13, and September 21, 2020.

Enclosed please find an Application seeking approval of two additional modifications to the approved Project route. Due to increased commercial activities, additional underground infrastructure, and a new distribution warehouse within the Harlem Yard in the Bronx ("HRY") following the issuance of the Certificate, the Applicants are proposing to modify this segment

¹ On July 16, 2020, the Commission approved the transfer of the Certificate to CHPE, LLC from Champlain Hudson Power Express, Inc. ("CHPEI"). For the purposes of this filing, "Applicants" represents both past and current Certificate Holders. In August, 2020, Champlain Hudson Power Express, Inc. converted from a corporation (CHPEI) to a limited liability company (CHPE LLC) and received Commission approval to transfer its CECPN from CHPEI to CHPE LLC. See Case 20-E-0145: *Petition of Champlain Hudson Power Express, Inc., CHPE Properties, Inc., and CHPE LLC for a Declaratory Ruling that a Series of Intra-Corporate Transactions are Not Transfers Subject to Review Under the Public Service Law or, in the Alternative, for Certain Approvals Pursuant to Sections 70 and 121 of the Public Service Law*, Order Approving Transfers (July 17, 2020).

of the Project route by reducing reliance on the HRY area and relocating approximately one mile of the route under Randall's Island in a corridor to be added to the Allowed Deviation Zone ("ADZ") approved pursuant to the Certificate. The Application also proposes to augment the ADZ in Rockland County to accommodate five splice locations along the approved Project route. The impacted area within each splice location is expected to be less than 1/10th of an acre and will be located adjacent to existing road rights-of-way and the previously approved deviation zone. When viewed individually and in the aggregate, these changes present neither a material increase in any environmental impact nor a substantial change to the location of the Project facilities. Therefore, the Commission retains the discretion to act on this Application without scheduling a hearing (PSL §123[2]).²

REQUEST FOR WAIVERS

Pursuant to Section 3.6 of the Commission's rules, the Applicants hereby move for waivers of certain requirements relating to information to be filed in this proceeding. Specifically, the Applicants respectfully request waivers of the following sections of the Commission's rules:

1. New York State Department of Transportation (NYSDOT) Maps (1:250,000 topographic edition) (16 NYCRR §86.3 [2]):

The general location of the Project and the Harlem River Preferred Alternative is shown in Appendix A of the Application in accordance with the requirements of 16 NYCRR §86.3(a)(2). This figure shows the location, length and capacity of the Harlem River Preferred Alternative, as well as any structure to be built on or adjacent to an existing ROW based on the latest edition of the United States Geological Survey ("USGS") 1:250,000 topographic edition maps. Appendix A also shows the points of interconnection between the Harlem River Preferred Alternative and the Commission-certified routing. Given that New York State Department of Transportation ("NYSDOT") topographic mapping at 1:250,000 scale does not clearly depict the location of the Harlem River Preferred Alternative and the USGS topographic edition maps at this scale do provide comparable information, the Applicants request a waiver from the 16 NYCRR §86.3(a)(2) requirement to show the location of the facility on a NYSDOT map (at a scale of 1:250,000).³

The Commission granted a similar waiver request in Case 17-T-0752, where PSEG Long Island LLC requested a waiver of 16 NYCRR §86.3(a)(2) because the required

² Case 15-T-0384: *Petition to Amend Niagara Mohawk Power Corporation's, d/b/a National Grid, Certificate of Environmental Compatibility and Public Need Granted on September 4, 1986 in Case 70346 to Authorize Construction and Operation of a New 115 kV Three Ring Bus Station, Two 115 kV Transmission Loop Taps, and an All-dielectric Self-supporting Fiber Optic Cable in the Town of Fenner, Madison County, Order Granting Amendment of Certificate of Environmental Compatibility and Public Need (September 18, 2015), at 3 (stating "[n]o hearing is required by the Commission here since the proposed changes in the facility will not materially increase the environmental impacts or substantially change the location of the facility.")*

³ USGS topographic maps at this scale for the Project route in Rockland County were provided with the petition filed December 9, 2019, as Appendix A.

NYSDOT maps were not available and PSEG's proposed alternative Long Island Power Authority Transmission System Map provided the statutorily required information.⁴ Similarly here, the USGS maps provide a depiction of the features required by 16 NYCRR §86.3(a)(2) with an equivalent or greater clarity than would be provided by the NYSDOT maps. Accordingly, the Applicants request that the Commission grant the requested waiver.

2. Aerial Imagery Maps (16 NYCRR §86.3 [b][2]):

The Applicants also request a waiver of the requirement to reflect the current conditions on aerial imagery taken within six months of the filing date because aerial photography is not available for the Project area within the last six months. The Commission has approved similar waiver requests in many Article VII proceedings. For example, in Case 11-T-0016, where the applicant requested authorization to submit aerial photographs that did not fall within the six-month statutory timeframe, the Commission granted the waiver on the grounds that the applicant had completed field reconnaissance to verify that the non-compliant photographs substantially reflected the site's current conditions.⁵ Similarly here, substitute aerial photographs are being provided with the Application and the consultant has completed similar site visits and attests that the photographs included as Appendix C of the Application reflect current site conditions.

Consistent with 16 NYCRR §86.3(b)(1), Appendix C of the Application provides ortho-photographs showing at least 1,200 linear feet on each side of the proposed nominal centerline. The photos enable identification of natural and cultural features and include overlays: (i) clearly identifying the proposed nominal centerline; (ii) showing where the construction of the proposed Harlem River Preferred Alternative would require permanent clearing of vegetation; and (iii) showing the location of the proposed nominal centerline. The ortho-photographs were taken in March, 2020. Because these aerial photographs reflect the current conditions along each proposed nominal centerline and are the most recent ortho-photographs available for the Project area, the Applicants request a waiver from the requirement at 16 NYCRR 86.3(b)(2) requiring aerial photographs be taken within the last six months. Field surveys completed in 2019 confirmed that the aerial photos presented in this Application represent the conditions within and adjacent to the proposed nominal centerline, including developments.

For the foregoing reasons, the Applicants respectfully request that the Commission waive the requirements of 16 NYCRR §86.3 (a)(1) and 16 NYCRR §86.3 (b)(2). Requests for waiver of local requirements, if any, are addressed in Appendix F of the Application.

⁴ Case 17-T-0752: *Application of PSEG Long Island LLC on Behalf of and as Agent for the Long Island Lighting Company d/b/a LIPA for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for the Western Nassau Transmission Project*, Order Granting Waiver Requests (March 19, 2018) (stating “[i]t has become our practice to grant waivers to accept alternatives to the cited, yet unavailable, NYSDOT maps.”)

⁵ Case 11-T-0016: *Application of Long Island Power Authority for a Certificate of Environmental and Public Need Pursuant to Article VII of the Public Service Law to Increase the Design Capacity of the Existing 10.6 mile Wildwood to Riverhead Electric Transmission Line from 69 kV to 138 kV*, Order Granting Waiver Requests (Jul. 15, 2011), at pp. 3 – 4.

Proof of service and notice of the petition will be filed under separate cover.

Please contact me with any questions.

Respectfully,

/s/ **Steven D. Wilson**

Steven D. Wilson
Young / Sommer LLC

*Attorneys for CHPE, LLC and CHPE
Properties, Inc.*

cc: Active parties (*via email*)