

BEFORE THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION

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In the Matter of :  
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Application of Champlain Hudson Power :  
Express, Inc. for a Certificate of : Before  
Environmental Compatibility and Public : Hon. Kevin J. Casutto  
Need Pursuant to Article VII of the Public : Hon. Michelle L. Phillips  
Service Law for the Construction, Operation : Administrative Law Judges  
and Maintenance of a High Voltage Direct :  
Current Circuit from the Canadian Border :  
to New York City. :  
:  
:  
P.S.C. Case No. 10-T-0139 :  
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**CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.'S RESPONSE TO JOINT  
MOTION TO INCORPORATE BY REFERENCE OR TAKE JUDICIAL NOTICE OF THE  
FEBRUARY 2008 DRAFT RCRA FACILITY INVESTIGATION REPORT**

Peter P. Garam  
Shira R. Rosenblatt

CONSOLIDATED EDISON COMPANY  
OF NEW YORK, INC.

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Dated: New York, New York  
August 28, 2012

On August 2, 2012, the New York State Department of Environmental Conservation (“DEC”), the Staff of the New York State Department of Public Service (“Staff”), and Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. submitted a Joint Motion for Incorporation by Reference or Official Notice in the above-referenced proceeding of a draft report submitted to DEC by Con Edison in February 2008, entitled “RCRA Facility Investigation Report, Con Edison, Astoria, N.Y.” (the “draft RCRA Report”). On August 21, 2012, the motion was denied, without prejudice, in part due to the draft RCRA Report’s status as a draft, non-final report. On August 22, 2012, the DEC and Staff (the “Moving Parties”) renewed their motion, arguing that even if Your Honors decided not to incorporate the entire draft RCRA Report by reference into the evidentiary record, they seek the incorporation by reference or the taking of judicial notice of Figures 4.37-1 through 4.37-4 of the draft RCRA Report and the facts contained in such figures.

While Con Edison takes no position on the joint motion, because the draft RCRA Report was prepared and submitted by Con Edison to the DEC, we are providing the following factual background on the draft RCRA Report and authenticating it as genuine and accurate as of the time of its submission to the DEC to assist in Your Honors’ decision on the renewed joint motion.

On February 1, 2008, Con Edison submitted the draft RCRA Report for Con Edison’s Astoria Facility to the DEC. It was submitted as a draft, since revisions may be required after comments are received from the DEC. The draft RCRA Report was prepared for Con Edison by ENSR Corporation, a subsidiary of AECOM.

The draft RCRA Report was performed and submitted in accordance with the Part 373 hazardous waste storage facility permit issued by the DEC to Con Edison. The objective of the

draft RCRA Report was to characterize the nature, extent, direction, rate, movement, and concentration of release(s) of hazardous waste and/or hazardous constituents at various Solid Waste Management Units (“SWMUs”), Areas of Concern (“AOCs”) and spills at the Astoria facility. It includes data collected during several phases of investigation over the period 1993 – 2007. One of the AOCs that was investigated was the area identified as the Eastern Parcel (the Converter Station, as agreed to in this proceeding, is proposed to be located on a portion of the Eastern Parcel). Specific factual data reflecting characteristics of the property and the nature of contaminants found in this parcel are set forth in Figures 4.37-1 through 4.37-4. The draft RCRA Report remains under review by the DEC.

These data are the most current data available regarding the nature and extent of the contamination of the Eastern Parcel and we believe these factual data were accurate at the time of the preparation and submission of the draft RCRA Report and are unlikely to be changed in the course of DEC’s ongoing review of the draft RCRA Report.

Dated: New York, New York  
August 28, 2012

Respectfully submitted,

CONSOLIDATED EDISON COMPANY  
OF NEW YORK, INC.

By Its Attorneys

Peter P. Garam  
Shira R. Rosenblatt

s/ Shira R. Rosenblatt

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