

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Case 15-E-0516 – Petition of Greenidge Generation LLC for an Original Certificate of Public Convenience and Necessity and Lightened Regulation.

Case 15-G-0571 – Petition of Greenidge Pipeline LLC and Greenidge Pipeline Properties Corporation for an Expedited Original Certificate of Public Convenience and Necessity and for Incidental or Lightened Regulation.

Case 15-T-0586 – Application by Greenidge Pipeline LLC; Greenidge Pipeline Properties Corporation to Construct a Fuel Gas Transmission Line, Containing Approximately 24,318 Feet of 8” Steel Pipeline, Located in the Towns of Milo and Torrey, Yates County.

**SUPPLEMENTAL COMMENTS
OF THE COMMITTEE TO PRESERVE THE FINGER LAKES**

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INTRODUCTION

The Committee to Preserve the Finger Lakes (“CPFL”) respectfully submits the following comments to supplement its initial comments filed November 9, 2015, in opposition to the petitions and application in the above-captioned cases, to supplement its comments at the procedural conference on November 10, 2015 (the “Procedural Conference”), and to oppose the comments filed by Greenidge Generation LLC (“GGLLC”), Greenidge Pipeline LLC (“GPLLC”) and Greenidge Pipeline Properties Corporation (“GPPC”) on November 10, 2015, (GGLLC, GPLLC and GPPC are hereinafter referred to collectively as “the Applicants”) and the comments made by Applicants at the Procedural Conference.

DISCUSSION AND COMMENT

A. GGLLC’s Petition is Properly Reviewable under Article 10

In its petition, GGLLC seeks authority to convert a permanently retired coal-fired generating station to a natural gas fired generating station and to commence new operations under entirely new ownership. These circumstances require that GGLLC’s petition be considered pursuant to Article 10 of the Public Service Law (“PSL”), not PSL Section 68 of Article 4 as GGLLC requests. As discussed at the Procedural Conference, the Greenidge Station was retired on May 19, 2011 and has not operated since that date.¹ On September 18, 2012, the plant’s previous owner, AEE2, LLC, filed a notice of the permanent retirement of the plant.² A copy of this notice is attached as Exhibit A. The notice states, “AEE2 intends to permanently

¹ Verified Petition of Greenidge Generation LLC for an Expedited Order Granting An Original Certificate of Public Convenience And Necessity) and Lightened Regulation at 2, New York Public Service Commission Case 15-E-0516.

² Case 05-E-0889, *Notice of Retirement of Greenidge Unit 4*, September 18, 2012, attached as Exhibit A.

retire the Greenidge Unit 4 facility on September 21, 2012, and soon thereafter transfer the facility to a salvage company to dismantle and salvage the facility.”³ At or about this same time, AEE2 and its affiliates entered bankruptcy and AEE2 turned in its Clean Air Act, Title IV and Title 5 permits. For these reasons, CPFL asserts that there is substantial evidence that the Greenidge plant was permanently retired in 2012.

Based on the discussion of the application of Article 10 at the Procedural Conference there appears to be a factual dispute regarding whether or not the facility was permanently retired. CPFL asserts that this factual issue must be resolved in an evidentiary hearing in order to determine whether or not an Article 10 proceeding is required.

B. Applicants Fail to Show that Commencing New Operations at the Greenidge Generating Station Will Serve Either Public Need or the Public Interest under Section 68

Even if GGLLC’s petition is reviewed under Section 68 of Article 4 of the PSL, as GGLLC requests, Applicants have failed to show that commencing new operations at the Greenidge Generating Station will serve either public need or the public interest as required by that section. In their comments dated November 10, 2015, the Applicants assert that “there is no requirement in PSL § 68 that an applicant demonstrate a ‘public need’ for any proposed new service.” This assertion is surprising given the wording of Section 68 and Section 21.3(g) of the Commission’s regulations, both of which contain requirements that the necessity for the proposed service be shown.

Section 68 states that in granting “permission and approval” under section 68, the Commission “shall after due hearing determine that such construction or such exercise of the

³ *Id.*

right, privilege or franchise is convenient and *necessary for the public service.*”⁴ [Emphasis added.] Additional language was added to section 68 in 2013, specifying the types of information the Commission shall consider in making such a determination. The new wording states, “In making such a determination, the commission shall consider the economic feasibility of the corporation, the corporation’s ability to finance improvement of a gas plant or electric plant, render safe, adequate and reliable service and provide just and reasonable rates, and whether issuance of a certificate *is in the public interest.*”⁵ [Emphasis added.] Considering the wording of the section as a whole, it is apparent that the phrases “necessary for the public service,” *i.e.*, “public need,” and “public interest” are synonymous.

Both “public need” and “public interest” are used in Section 21.3(g) of the regulations, which specifies types of information required to make a showing of public need. Subsection (g) provides as follows:

(g) Where similar services are being rendered in all or part of the area proposed to be served, *the public need* for the proposed service including, but not limited to:

(1) the adequacy of the existing service to meet *the reasonable needs of the public* in the territory involved;

(2) the ability and willingness of the present operator(s) to provide such reasonably adequate service; and

(3) the degree of competition desirable or *required by the public interest.*

16 NYCRR 21.3(g) [emphasis added].

Whether the deficiencies in GGLLC’s petition are described in terms of “public need” or “public interest,” GGLLC has failed to show that the public would be served by authorizing the

⁴ PSL § 68, added by L. 2013, c. 57, pt. X§ 5.

⁵ *Id.*

commencement of new operations at the Greenidge Generating Station. The minor amendments GGLLC has made to its original petition do not remedy the deficiencies in that document.

1. Applicants Fail to Show that Commencing New Operations is Economically Feasible because They Fail to Show a Need for Additional Capacity or that their Costs of Production Are Competitive in the Market

Applicants assert there is no requirement that they disclose their business plan. But this assertion is contrary to the plain wording of Section 68 of the PSL and Section 21.3 of the Commission’s regulations,⁶ as well as to the interpretation of those requirements contained in the Commission’s order in *Binghamton BOP*,⁷ the case Applicants cite in support of their assertion.

Section 68 requires that the Commission “consider the economic feasibility of the corporation.” In order to consider economic feasibility, the Commission must examine the Applicants’ business plan or equivalent information, neither of which have been provided in the pending cases. Section 21.3 specifies the types of information an applicant for a proposed service must provide. The types of information required by this section are the types of information that would be contained in a detailed business plan. Section 21.3 requires that an applicant provide, *inter alia*:

- (b) Description of the plant and system to be constructed and the estimated cost thereof.
- (c) The manner in which the cost is to be financed. . . .
- (e) Estimated revenues to be derived from operations covered by the petition, and the estimated expenses of such operations, each to be complete and in detail for each of the first three years of service; also estimate made from an actual survey of the territory of the number of prospective customers at the end of the first, second and third years

⁶ 16 NYCRR § 21.3.

⁷ Case 14-E-0372, *Binghamton BOP LLC, Petition for an Original Certificate of Public Convenience and Necessity and Establishing a Lightened Regulatory Regime*, Order issued December 11, 2014.

of service showing for each date the number of prospective customers in the residential, commercial and industrial classes of service.

(f) The facts upon which it relies to entitle it to exercise the rights and privileges petitioned for, including evidence of the economic feasibility of the enterprise, proof of the applicant's ability to finance the project and to render adequate service and that the proposal is in the public interest.

(g) Where similar services are being rendered in all or part of the area proposed to be served, the public need for the proposed service including, but not limited to:

(1) the adequacy of the existing service to meet the reasonable needs of the public in the territory involved;

(2) the ability and willingness of the present operator(s) to provide such reasonably adequate service; and

(3) the degree of competition desirable or required by the public interest.

None of the information required by Section 21.3 has been provided by the Applicants. In order for the public to be in a position to properly evaluate and comment upon the petitions and application at issue in these cases, this information must be provided, and an opportunity given to comment on the new information.

The Commission discussed the requirements of Section 21.3 in the *Jordanville Wind* case.⁸ “Our rules establish pertinent evidentiary requirements for a CPCN application (16 NYCRR §21.3). The rules require a description of the plant to be constructed and of the manner in which the cost of such plant is to be financed, evidence that the proposed plant is in the public

⁸ Case 06-E-1424, *Petition of Jordanville Wind, LLC for a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law, and Approving a Lightened Regulatory Regime*, Order dated August 23, 2007.

interest and is economically feasible, and proof that the applicant is able to finance the project and render adequate service.”⁹ None of this information has been provided by the Applicants.

In *Binghamton BOP*, the Commission stated: “the Commission has consistently recognized that [merchant generating facilities proposing to operate exclusively in New York’s competitive wholesale markets] are in the public interest as required by PSL § 68 *where they have been shown to provide benefits in the form of . . . improved reliability and lower prices for electric energy and capacity* throughout New York State.”¹⁰ [Emphasis added]. Applicants have not shown that they are able to provide any such benefits. Unless they provide their business plan, or the information that would be included in a business plan, it is not possible for Applicants to show that they are in a position to provide benefits regarding reliability and capacity required by the order in *Binghamton BOP*.

CPFL emphasizes Applicants’ failure to provide a business plan or address capacity demands in the market because current market conditions show there is significant over-capacity in Zone C of the New York market, the zone in which the Greenidge plant is located, and over-capacity in the New York market as a whole.¹¹ Given this over-capacity, and Applicants’ failure to provide any information to suggest that they would be a low-cost producer in this market, CPFL does not see how new operations at Greenidge can provide capacity benefits to the New York market.

In 2010, the previous owner of Greenidge, AEE2, LLC sought protective lay-up status for the facility on the ground that “[b]ased on the current and forecasted wholesale electric prices in

⁹ *Id.*

¹⁰ Case 14-E-0372, *Binghamton BOP LLC, Petition for an Original Certificate of Public Convenience and Necessity and Establishing a Lightened Regulatory Regime*, Order issued December 11, 2014.

¹¹ See NYISO’s 2015 Load & Capacity Data Report.

Central New York and current and pending environmental regulations, the Greenidge Unit 4 facility is, and will continue to be, operating at a net loss.”¹² In its subsequent notice of permanent retirement in 2012, AEE2, LLC stated that “NYSEG, as the ‘affected T&D utility,’ and the NYISO analyzed whether the retirement of the Greenidge Unit 4 facility could harm the reliability of the bulk and local electric transmissions systems in New York. To AEE2’s knowledge, no such reliability concerns were identified.”¹³ Applicants have not explained how reliability concerns have changed or provided any information to explain why they are in a better position than the previous owners to compete in the market.

CPFL notes that Commission staff filed a letter of insufficiency regarding the GGLLC petition.¹⁴ The letter states, “[t]he statutory provision [PSL §68(1)] also requires that the Commission consider the petitioner’s ability to render safe and reliable service, which was not addressed in the petition.” CPFL maintains that the deficiencies in the application still have not been corrected. The minor changes that have been made in GGLLC’s petition following issuance of the deficiency letter do not address the substance of the deficiency identified. Applicants’ most recent amendment to the GGLLC petition, filed November 17, states that GGLLC has hired a second staff member and plans to hire two more.¹⁵ The amendment does not address the substantive deficiency identified by the Commission.

¹² Case 05-E-0889, *Notice of Protective Lay-Up of Greenidge Unit 4*, September 17, 2010.

¹³ Case 05-E-0889, *Notice of Retirement of Greenidge Unit 4*, September 18, 2012, attached as Exhibit A.

¹⁴ Case 15-E-0516, Letter of Steven Blow to George Pond, September 14, 2015.

¹⁵ Case 15-E-0516, Verified Supplement to Petition for Certificate of Public Convenience and Necessity, dated November 13, 2015, and filed November 17, 2015.

2. *Discovery is Required before the Petitions and Application Can Be Granted*

Because GGLLC's petition is deficient, either the petition must be denied or discovery must be allowed to place facts regarding Applicants' costs of production, the capacity of the market and the reliability needs of the grid into the record of this proceeding. Included in that discovery, CPFL requests an opportunity to review and comment on the System Reliability Impact Study ("SRIS") for the Greenidge facility prepared by NYISO. GGLLC's petition refers to the SRIS and states that the study found that interconnection of Greenidge would not adversely impact the reliability of the New York State Transmission System.¹⁶ GGLLC's petition does not state that the SRIS found that interconnection of the facility would benefit the grid or cure any reliability deficiencies. The SRIS has not been filed in this proceeding, and CPFL requests discovery of this document.

C. Environmental Review by the Commission is Required

1. *Evaluation of Environmental Impacts under Article 10*

As noted above, the permanent retirement of the Greenidge Generating Station by its previous owner, requires that the new operations proposed by GGLLC be authorized pursuant to PSL Article 10. Article 10 requires environmental and public health impact analyses, and studies regarding environmental justice and public safety that are independent of SEQRA, and that may be even broader than SEQRA. Pursuant to PSL §168(2)(b), environmental review under Article 10 must consider "the nature of the probable environmental impacts, including an evaluation of the predictable adverse and beneficial impacts on the environment and ecology, public health and safety, aesthetics, scenic, historic and recreational value, forest and parks, air and water quality." PSL §168(c) requires a determination that the facility:

¹⁶ Page 9.

(i) minimizes adverse environmental impacts, considering the state of available technology, the nature and economics of such reasonable alternative as are required to be examined pursuant to [PSL § 164(1)(b)], the interest of the state with respect to aesthetics, preservation of historic sites, forest and parks, fish and wildlife, viable agricultural lands, and other pertinent considerations, (ii) is compatible with public health and safety, (iii) will not be in contravention of water quality standards or be inconsistent with applicable regulations of the department of environmental conservation, or in case no classification has been made of the receiving waters associated with the facility, will not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the state, and public health and public enjoyment of the receiving waters, (iv) will not emit any pollutants to the air that will be in contravention of applicable air emission control requirements or air quality standards, (v) will control the runoff and leachate from any solid waste disposal facility, and (vi) will control the disposal of any hazardous waste.

Whether Commission’s review of the environmental impacts of the proposed Greenidge project is conducted pursuant to SEQRA or to Article 10, CPFL requests that a determination of significant impact on the environment be issued by the Commission and that a notice requesting comments be issued.

2. *Evaluation of Environmental Impacts under SEQRA for Certificates Issued pursuant to PSL § 68*

To the extent that the Commission determines that it is appropriate to review Applicants’ petitions pursuant to PSL § 68, it is an involved agency for purposes of SEQRA review of the proposed project and must evaluate the environmental impacts of the project.¹⁷ As the Commission noted in the *Binghamton BOP* case, “[i]n accordance with the State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law, New York

¹⁷ SEQRA exempts review for proceedings under PSL Article 10, but not for other types of PSL proceedings. See ECL §8-0111(5) and 6 NYCRR §617.5(c)(35). The reason for this exemption is to prevent redundant review of environmental impacts under both Article 10 and SEQRA. *Athens Generating Company, LP*, Interim Decision of the Commissioner of Environmental Conservation, June 2, 2000, <http://www.dec.ny.gov/hearings/10976.html>.

State agencies must determine whether the actions that they are requested to approve may have a significant impact on the environment.”¹⁸ Similarly, in the *Jordanville* case, the Commission observed that its approval authority for certificates of public convenience and necessity made it “an involved agency for purposes of SEQRA review.”¹⁹ As such, the Commission stated, “we must make a written findings statement that, *inter alia*, weighs and balances relevant environmental impacts with social, economic, and other considerations and provide a rationale for our decision.”²⁰

In the *Binghamton BOP* case the Commission noted that, “[o]ther than our approval of the action proposed here, no additional state or local permits or approvals are required, and so a coordinated review under SEQRA is not needed. We will assume Lead Agency Status under SEQRA and conduct an environmental assessment.” The Commission determined that the grant of a CPCN to Binghamton BOP was an ‘unlisted’ action under SEQRA. “As such,” the Commission stated, “it requires only the preparation of a Short Environmental Assessment Form (Short EAF) to determine, pursuant to 6 NYCRR §617.6(3), if the action will cause any adverse environmental impacts.”²¹

Applicants suggest that the Commission should defer to the environmental review conducted by DEC for the Greenidge facility air permits. There are differences, however, between the situation in *Binghamton BOP* and the situation in the current proceedings. One

¹⁸ Case 14-E-0372, *Binghamton BOP LLC, Petition for an Original Certificate of Public Convenience and Necessity and Establishing a Lightened Regulatory Regime*, Order issued December 11, 2014.

¹⁹ Case 06-E-1424, *Petition of Jordanville Wind, LLC for a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law, and Approving a Lightened Regulatory Regime*, Order dated August 23, 2007.

²⁰ *Id.*

²¹ *Id.*

difference is that *Binghamton BOP* did not involve any other state or local permits. In contrast, the present proceedings involve a number of DEC permits and approvals and local approvals. A second difference is that the Binghamton facility “is not located near wetlands, floodplains, or streams.” In contrast, the Greenidge generating station is located at the intersection of the Keuka Outlet and Seneca Lake, and the proposed pipeline runs near the Keuka Outlet and connects to the generating station several hundred feet from Seneca Lake. Because of these differences, the Greenidge petitions and application require a more detailed environmental review than the review performed in *Binghamton BOP*.

Jordanville did involve a number of permits to be issued by DEC.²² In *Jordanville*, the Commission deferred in part to a comprehensive FEIS prepared by the DEC as lead agency, although the Commission disagreed with some of the findings in the FEIS and imposed “additional impact mitigation requirements” in its own findings statement.²³

The present proceedings differ from *Jordanville* in that the lead agency, DEC, has not conducted a full environmental review of the impacts of the proposed project. Instead, as noted in CPFL’s initial comments, DEC conducted cursory reviews of the various permits it proposes to issue individually without an assessment of cumulative impacts and without any opportunity for public comments. DEC issued a short form EAF for the proposed air permits, a negative declaration for its renewal of an existing SPDES permit, and a determination that issuance of the water withdrawal permit is exempt from SEQRA review. The only coordinated review conducted by DEC was for the air permits. DEC has not conducted a comprehensive FEIS of the Greenidge project, nor has it looked at the cumulative impacts of the entire project, including the

²² Cited in note 19 above.

²³ *Id.*

pipeline and the operation of the adjoining coal ash landfill projected to take the waste from the generating station.²⁴ A cumulative impact analysis is required under SEQRA for projects arising from a common plan, as is the case with Greenidge.²⁵

Applicants assert in their response to CPFL’s initial comments that CPFL should be bound by the final determination in the DEC proceedings on the Greenidge permits. As far as CPFL is aware, however, there have been no final determinations in the DEC permit proceedings. CPFL filed comments on the proposed DEC permits on September 11, 2015, requesting more time to comment and objecting to the lack of a full environmental review. CPFL has not received a response to those comments. It is CPFL’s understanding that it would still be possible for the DEC to conduct a full environmental review of the cumulative impacts of the proposed DEC permits as requested by CPFL and others.

3. *Party Status Should Be Allowed because Participation by CPFL Will Be Helpful to the Commission’s Environmental Review*

In *Jordanville*, after observing that the Commission “must make a written findings statement that, *inter alia*, weighs and balances relevant environmental impacts with social, economic, and other considerations,” the Commission stated, “[b]ecause these broad responsibilities relate to our PSL §68 review, we will allow those seeking party status to intervene, believing that their participation is helpful in completing the record and in the public interest.”²⁶

²⁴ The coal ash landfill is owned and operated by an affiliate of the Applicants, Lockwood Hills LLC.

²⁵ *Long Island Pine Barrens Society v. Planning Board of Brookhaven*, 80 N.Y.2d 500, 591 N.Y.S.2d 982, 606 N.E.2d 1373 (1992). As the *SEQRA Handbook* states, “Cumulative impacts must be assessed when actions are proposed to or will foreseeably take place simultaneously or sequentially in a way that their combined impacts may be significant.” <http://www.dec.ny.gov/permits/47716.html>.

²⁶ Case 06-E-1424, *Petition of Jordanville Wind, LLC*, cited above.

For similar reasons, CPFL believes that its participation as a party in each of the above-captioned proceedings will be helpful to the Commission in completing the record in these cases on environmental impacts. The local knowledge CPFL members have of the project area and its environmental resources will contribute to proceeding.

Fish Impingement and Entrainment Data

As noted in CPFL's initial comments, an understanding of the impacts of Greenidge's operations on aquatic life in Seneca Lake is essential to a full environmental impact analysis. In its initial comments, CPFL requested discovery of the Greenidge fish impingement and entrainment studies, noting that it had been unable to obtain those studies pursuant to a FOIL request filed with DEC in August 2015. CPFL is pleased to report that it may shortly obtain access to these studies from DEC. CPFL's attorney was notified on November 13, 2015, that she would be given access to documents relating to the request and she has arranged with a copy center in Albany to make copies of those documents.²⁷ The copies have not yet been received. CPFL requests an opportunity to provide the Commission with comments on these studies once they are received and reviewed.

Impacts from Pipeline Construction and Operations at the Generating Facility on the Adjoining Coal Ash Landfill

More information about the coal ash landfill adjoining the Greenidge Generation Station and very near the pathway of the proposed pipeline is needed to adequately evaluate the risks of adding new waste to the landfill, building a pipeline adjacent to the landfill, undertaking new construction at the generating station and operating the generation station adjacent to the landfill.

²⁷ Electronic copies of several impingement and entrainment studies for the Cayuga Generating Station were provided, but electronic copies of the Greenidge studies were not provided. The FOIL request was for studies for both facilities.

A 2013 report on the impacts of coal ash contamination by Environmental Integrity

Project, Earth Justice, the Sierra Club, Clean Water Action and the Waterkeeper Alliance states:

Coal-fired power plants are the largest source of toxic water pollution in the United States based on toxicity, dumping billions of pounds of pollution into America's rivers, lakes, and streams each year. The waste from coal plants, also known as coal combustion waste, includes coal ash and sludge from pollution controls called "scrubbers" that are notorious for contaminating ground and surface waters with toxic heavy metals and other pollutants. These pollutants, including lead and mercury, can be dangerous to humans and wreak havoc in our watersheds even in very small amounts. The toxic metals in this waste do not degrade over time and many bio-accumulate, increasing in concentration as they travel up the food chain, ultimately collecting in our bodies, and the bodies of our children.²⁸

Given these risks, a careful evaluation of impacts of the proposed project on the landfill must be made.

CPFL has learned that Lockwood Hills LLC, an affiliate of the Applicants, entered into a consent order with DEC on February 18, 2015.²⁹ The consent order states that "Lockwood Hills [LLC] is the owner and operator of a solid waste management facility, a wastewater treatment system, and related improvements at a location in the Town of Torrey, Yates County, New York, commonly known as the Lockwood Ash Landfill (the "Landfill"). A copy of the consent order is attached as Exhibit A. According to the consent order, the landfill "is permitted to accept for disposal water treatment plant sludge and coal combustion byproducts. Among the improvements at the Landfill is an unlined leachate and stormwater collection pond (the

²⁸ *Closing the Floodgates: How the Coal Industry Is Poisoning Our Water and How We Can Stop It*, Environmental Integrity Project, Earth Justice, the Sierra Club, Clean Water Action and the Waterkeeper Alliance, July 2013, <http://earthjustice.org/documents/report/pdf/closing-the-floodgates>, at 1.

²⁹ Case No. R8-2014071 0-47, *In the Matter of Violations of Articles 17 and 27 of the New York State Environmental Conservation Law by Lockwood Hills LLC*, Consent Order, February 18, 2015.

“Leachate Pond”).³⁰ The consent order indicates that there are significant problems with the landfill. The order states that DEC “has determined that groundwater at the site contains substances in excess of the duly promulgated water quality standards for, inter alia, total dissolved solids, boron, manganese, magnesium, iron, sodium and sulfate,” and that DEC “believes that the Leachate Pond is a source of the substances and has contributed and continues to contribute to a contravention of duly promulgated water quality standards in violation of ECL § 17-0501 and 6 NYCRR § 360-1.14(b)(2).³¹ The order states:

It is the objective of this Consent Order for Lockwood Hills to eliminate the discharge of leachate to groundwater from the Leachate Pond and to provide for a satisfactory monitoring regime for groundwater impacted by the discharge. Towards those ends, Lockwood Hills shall perform the compliance requirements stated in this Consent Order and take such other and further steps necessary to attain the objectives of this Consent Order or as otherwise directed by the Department.³²

CPFL requests that it be allowed discovery of the documents Lockwood Hills is required to provide to the DEC pursuant the consent order. CPFL believes these documents are essential to understanding the risks presented by the coal ash landfill.

CPFL understands that the Seneca Lake Pure Waters Association (SLPWA) has a water monitoring team that has collected water samples on the Keuka Outlet upstream and downstream of the coal ash landfill. As noted in the letter from SLPWA’s president to the president of CPFL attached as Exhibit B, these samples have been sent to a certified lab for testing for mercury and for the chemicals identified in the consent order as exceeding water quality standards, i.e., total dissolved solids, boron, manganese, magnesium, iron, sodium and sulfate. SLPWA does not

³⁰ *Id.*, p. 2.

³¹ *Id.*, p. 3.

³² *Id.*, p. 4.

expect to receive these results until mid-December. CPFL requests an opportunity to provide the Commission with comments on these test results once they have been received and reviewed.

D. Consideration of the Impact of the Life Cycle Emissions of Natural Gas

Applicants assert that the State Energy Plan does not in any way restrict the use of natural gas in existing electric generating facilities. In response, CPFL points out that Greenidge is not an existing facility. Rather, Applicants seek to convert a retired coal generating facility to a natural gas generating facility and commence new operations. This is not equivalent to usage at an existing facility.

Applicants also assert that natural gas is “clean-burning” and that “converting Greenidge Unit 4 from coal to natural gas will substantially reduce the carbon dioxide emissions of that facility.” Contrary to Applicants’ claim, converting the Greenidge plant from coal to natural gas will increase emissions. As noted above, the Greenidge station was retired on May 19, 2011 and has not operated since that date.³³ Commencing new operations at this facility, no matter what the source, will result in new emissions from the facility.³⁴ Even if the emissions of the facility as a natural gas fired plant are evaluated as a comparison with the emissions of the facility as coal fired plant, it is not possible to evaluate the Applicants’ emission profile claims without further information on the planned conversion and operational limitations associated with the coal to natural gas conversion.

The Applicants provide no information about changes that must occur at the facility to complete the conversion or how the conversion will affect the operating efficiency of the plant.

³³ Verified Petition of Greenidge Generation LLC for) an Expedited Order Granting An Original) Certificate Of Public Convenience And Necessity) and Lightened Regulation at 2, New York Public Service Commission Case 15-E-0516.

³⁴ See Greenidge Generation LLC, Title V Draft Permit Conditions at 2 *available at* <http://www.dec.ny.gov/dardata/boss/afs/permits/857360000400017.pdf>.

This information is necessary to assess boiler thermal performance, combustion system modifications, and other changes that affect the operational performance and emissions profile of the facility.³⁵ The suggestion that either natural gas alone or a mix of biomass, fuel oil and natural gas are clean burning fuels is misleading, particularly under the circumstances of the proposed coal to gas conversion. Additional information about the planned conversion and operation of the facility is needed in order to evaluate the claims made by the Applicants with respect to the plant's operation and emissions.

Furthermore, claims that natural gas is a clean and climate friendly fuel source do not take into account the substantial leakage of methane and other greenhouse gases during the extraction of natural gas from shale fields. These impacts must be considered in evaluating the merits of the Greenidge proposal. Methane put into the atmosphere in Pennsylvania drives global warming, not just in Pennsylvania, but in New York and the rest of the world.

A recent peer-reviewed study by Professor Robert Howarth from Cornell University looking at methane emissions and climatic warming risk from hydraulic fracturing and shale gas development, found that:

Over the past decade, shale gas production has increased from negligible to providing >40% of national gas and 14% of all fossil fuel energy in the USA in 2013. This shale gas is often promoted as a bridge fuel that allows society to continue to use fossil fuels while reducing carbon emissions since less carbon dioxide is emitted from natural gas (including shale gas) than from coal and oil per unit of heat energy. Indeed, carbon dioxide emissions from fossil fuel use in the USA declined to some extent between 2009 and 2013, mostly due to economic recession but in part due to replacement of coal by natural gas. However, significant quantities of methane are emitted into the atmosphere from shale gas development: an estimated 12% of total production considered over the full life cycle from well to

³⁵ See e.g., Scott Gossard, *Coal to Gas Conversions in the U.S.*, **POWER ENGINEERING** (June 18, 2015) available at <http://www.power-eng.com/articles/print/volume-119/issue-6/features/coal-to-gas-plant-conversions-in-the-u-s.html>.

delivery to consumers, based on recent satellite data. Methane is an incredibly powerful greenhouse gas that is >100-fold greater in absorbing heat than carbon dioxide, while both gases are in the atmosphere and 86-fold greater when averaged over a 20-year period following emission. When methane emissions are included, the greenhouse gas footprint of shale gas is significantly larger than that of conventional natural gas, coal, and oil. Because of the increase in shale gas development over recent years, the total greenhouse gas emissions from fossil fuel use in the USA rose between 2009 and 2013, despite the decrease in carbon dioxide emissions. Given the projections for continued expansion of shale gas production, this trend of increasing greenhouse gas emissions from fossil fuels is predicted to continue through 2040.³⁶

Within the last week, Massachusetts Attorney General Maura Healey released a study titled *Power System Reliability in New England: Meeting Electric Resource Needs in an Era of Growing Dependence on Natural Gas*, prepared by Analysis Group, Inc. The study evaluates options to address regional electricity reliability in New England, including natural gas capacity needs, through 2030. The study finds, *inter alia*, that “additional investment in energy efficiency and demand response measures is the most cost-effective and clean option for meeting any future electric reliability need, fully addressing the stressed system reliability deficiency, delivering the most wholesale electricity price benefits, and significantly reducing GHG emissions.”³⁷

³⁶ *Methane emissions and climatic warming risk from hydraulic fracturing and shale gas development: implications for policy*, Robert Howarth, Energy and Emission Control Technologies, Volume 3, 20, August 2015, http://www.eeb.cornell.edu/howarth/publications/f_EECT-61539-perspectives-on-air-emissions-of-methane-and-climatic-warmin_100815_27470.pdf.

³⁷ The report has been filed in the FERC proceeding on the Northeast Energy Direct gas pipeline project, PF14-22, Submittal, 20151118-5058, 11/18/2015, 11/18/2015 PF14-22-000, MA AGO Electric Reliability Study, filed by Matthew C Ireland, November 18, 2015.

Yesterday's New York Times reports that Governor Cuomo "plans to order state regulators to mandate that, by 2030, half of all power consumed by New Yorkers be generated from renewable sources that emit much less carbon dioxide."³⁸ The article states:

Mr. Cuomo, . . . , has already declared a goal of having 50 percent of the state's power come from solar, wind, hydroelectric or other renewable sources in 15 years, but the state has had no means of enforcing that directive. The governor intends to have the Public Service Commission, which regulates utilities in the state, codify the requirement.³⁹

DEC's evaluation of the air quality impacts of operations at Greenidge did not consider the methane that would be emitted in producing the gas that will be used at Greenidge, the methane that will leak from the pipelines transporting the gas to Greenidge, including the proposed new pipeline connecting the facility to the Empire Connector pipeline, or evaluate the potentials for leakage at the generating facility. All these upstream and midstream impacts must be taken into account, together with the plant-specific impacts when evaluating Applicants' proposed generating station and pipeline project for compliance with the requirements of the State Energy Plan, Article 10 and SEQRA.

CONCLUSION

For the foregoing reasons, CPFL maintains that the Applicants have not shown that their proposed project is necessary or in the public interest. CPFL has demonstrated a substantive basis for its opposition to the granting of the certificates requested in Cases 15-E-0516, 15-G-0571 and 15-T-0586. CPFL respectfully requests that the Commission deny petitions for expedited orders in each of these cases and provide for additional hearings to assist the

³⁸ "Gov. Cuomo to Order Large Increase in Renewable Energy in New York by 2030," Patrick McGeehan, *New York Times*, November 22, 2015, <http://mobile.nytimes.com/2015/11/23/nyregion/gov-cuomo-to-order-large-increase-in-renewable-energy-in-new-york-by-2030.html>?

³⁹ *Id.*

Commission in building a full record upon which to make findings of fact based on the contested issues presented by CPFL and others in their comments to the Commission.

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Respectfully submitted,

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