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January 17, 2013

Via e-mail

Honorable Jeffrey C. Cohen, Acting Secretary
State of New York Public Service Commission
Three Empire State Plaza
Albany, New York 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 Circuits from the Canadian Border to New York City

Exceptions of International Brotherhood of Electrical Workers, Local 97
To the Recommended Decision in the Above Proceeding

Dear Acting Secretary Cohen:

Pursuant to the Notice For Filing Exceptions, issued December 27, 2012, enclosed please find an electronic file in .pdf format containing the Exceptions of International Brotherhood of Electrical Workers, Local 97.

Respectfully submitted,

/s/ Richard J. Koda

Richard J. Koda, Principal
on behalf of
International Brotherhood of Electrical
Workers, Local 97

cc: w/encl: Hon. Kevin J. Casutto, Administrative Law Judge
Hon. Michelle L. Phillips, Administrative Law Judge
Theodore Skerpon, President/Business Manager/Financial Secretary,
International Brotherhood of Electrical Workers, Local 97
Active Party List via email

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

CASE 10-T-0139

EXCEPTIONS OF LOCAL 97, INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS TO THE IN THE ABOVE
PROCEEDING
TO THE RECOMMENDED DECISION BY
ADMINISTRATIVE LAW JUDGES
Michelle L. Phillips and Kevin J. Casutto

Richard J. Koda
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Tel. (203) 438-9045

Dated: January 17, 2013
Ridgefield, Connecticut

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 Circuits from the Canadian Border to New York City

Exceptions of Local 97, International Brotherhood of Electrical Workers to the Recommended Decision of Administrative Law Judges Michelle L. Phillips and Kevin Casutto dated December 27, 2012

Introduction

In their Recommended Decision (“RD”) ALJs Phillips and Casutto recommend that the Commission adopt the terms and conditions of the February 24, 2012 Joint Proposal, as revised by the Stipulations filed on June 4 and 26, July 11, and October 19, 2012, and as revised in accordance with their recommendations so that Applicants thus are granted a Certificate of Environmental Compatibility and Public Need for the Champlain Hudson Power Express Project. They also recommend that the proposed Water Quality Certification be issued by the Director of OEEE prior to the expiration of the USACE’s February 2013 waiver deadline.

Contrary to the ALJ’s conclusion, Local 97 continues to conclude that Commission approval of the JP would only benefit energy entities in Canada and a small segment of New Yorkers, i.e. energy users in New York City. If the ALJs’ Recommended Decision is adopted by the Commission it would be inimical to Mid and Upstate New York electric generators as well as Local 97 and its membership. Local 97 respectfully recommends that the Commission thoughtfully consider the following exceptions to the RD, as well as the exceptions filed by other parties opposing the Project, and reject the Joint Proposal as filed in this proceeding.

Need for the Facility

The RD discusses the Need for the Facility.¹ Regarding the Energy Price Impacts of the Facility, the ALJs find that even after accounting for opponents' criticisms and proposed offsets, the proponents have successfully demonstrated that the project will have sizable benefits in the form of reductions in the wholesale price of electricity. These particular benefits will not be enduring but they nonetheless will be realized and thus should be considered as evidence supporting both the required need and public interest findings.² Local 97 disagrees with the conclusion regarding any benefits in the form of wholesale prices specifically in Upstate New York and implores the Commission to thoroughly and objectively evaluate all of the evidence in this proceeding prior to its reaching a conclusion regarding the wholesale price effect of this transaction.

Regarding capacity market savings, the ALJs' view is that what is relevant for purposes of reviewing a merchant transmission proposal is whether the proposed facility will offer additional transmission capacity in an area that could benefit from it. The ALJs conclude that it will, mainly because New York City is a load pocket. They therefore recommend that with respect to capacity, the additional installed capacity that the facility will provide is what should be considered as a factor supporting both the need and public interest findings.³ While the ALJs focus on the New York City load pocket they give little weight to the rest of the state, specifically the northern and western tier of New York which will likely be harmed by the proposed facility. Given the economic condition of northern and western New York, these vast areas with substantial populations should have been accorded greater consideration than the ALJs have given them.

¹ Recommended Decision of Administrative Law Judges Michelle L. Phillips and Kevin Casutto dated December 27, 2012. at 22-72.

² *ibid.* at 54.

³ *ibid.* at 56-57.

Regarding developing competitive energy markets, energy infrastructure and energy resources, the ALJs are not persuaded by the claims that the project would hasten the exodus of fossil or renewable generation. They maintain that there are far too many variables at play that could influence or explain a generator's decision to exit the competitive market, including changes in environmental regulations or tax laws. They find no credible basis for concluding that any generator's decision to exit the market can be definitively and exclusively linked to the entry of this project.⁴ They maintain that short-term price decreases should not cause harm to existing generators who are able to adapt to an evolving competitive market.⁵ The point that the ALJs appear to miss is that it is not the ability of the fossil or renewable generators ability to compete with foreign Canadian power per se, but the lack of usable transmission facilities that would allow them the opportunity to compete which is the crux of the problem presented by this proceeding. The ALJs seem to dismiss the fact that with 1,000 mW being delivered from Canada to downstate electric customers, there would be no immediate need for renewable or fossil generated power generated in New York State to be transmitted downstate since the downstate load pocket would be generously supplied by the proposed facility. This fact would indeed curtail the ability of transmission entities to finance the needed additional transmission facilities to move the power generated by the upstate renewable and fossil generators to fertile markets. Local 97 believes that this project would indeed hasten the exodus of fossil or renewable generation from upstate New York and is inimical to the best interests of New York State.

⁴ *ibid.* at 66.

⁵ *ibid.* at 66-67.

Conclusion

Local 97 continues to believe that the Applicants' Facility is not in the best interest of New York State as a whole. Approving it would provide foreign electric energy to a significant but relatively small congested area of the State with high demand. This project utilizes New York State land and waterways but does nothing to contribute to the economic well-being of vast majority of communities and the power needs of constituents in Upstate and Western New York. The lack of widespread benefit and long-term strategic harm to the existing transmission grid in the New York Control Area resulting from this project supports a Commission decision to reject the JP and the Applicants' Facility.

For all of the reasons stated above and the reasons set forth in its Initial and Reply Briefs, the Union respectfully recommends that the Commission not accept the ALJs' recommendation and reject the JP and the Applicants' Facility. Local 97 believes that to accept the ALJ's Recommended Decision would be an acknowledgement by the State of New York that it is willing to export jobs and domestic economic opportunity in exchange for a short term fix by a foreign enterprise to what has been, and continues to be, a long-term domestic electric power transmission congestion problem.

Dated: January 17, 2013
Ridgefield, Connecticut

Respectfully Submitted,

/s/ *Richard J. Koda*

Richard J. Koda
KODA CONSULTING, Inc.
Consultant to
International Brotherhood of
Electrical Workers, Local 97