

# STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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June 22, 2012

Mr. John Draghi  
600 Third Avenue, 15<sup>th</sup> Floor  
New York, NY 10016

Mark Mahlmeister  
New York State Electric & Gas Corporation  
18 Link Drive, P.O. Box 5224  
Binghamton, NY 13902-5224

RE: Case 12-T-0248 –Application of New York State Electric & Gas Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the "Columbia County Transmission Project," Approximately 11.1 Miles of 115 Kilovolt Transmission Lines and related facilities in the Towns of Chatham, Ghent, and Stockport, in Columbia County.

Dear Messrs Draghi and Mahlmeister,

Upon a preliminary review of the documents submitted by New York State Electric & Gas Corporation (NYSEG), on May 25, 2012, the documents, as submitted, are not filed or otherwise in compliance with §122 of the Public Service Law (PSL). The deficiencies identified must be remedied or otherwise cured before the documents can be deemed to comply with PSL §122 and the public hearing can be commenced.

PSL §123(1) provides for the setting of a date for the commencement of a public hearing on an Article VII application after receipt of an application that complies with PSL §122. PSL §122 establishes requirements for the content, filing, and service of applications, as well as a requirement that the application contain such other information as the Commission may by regulation require. The Commission's regulations at 16 NYCRR Parts 85, 86 and 88 require other information.

The following deficiencies have been identified:

1. The documents do not comply with the requirements of 16 NYCRR §85-2.10(a)(6) that the applicant provide proof of service on each member of the New York State Legislature through whose district any part of the facility, as primarily or alternatively proposed, would pass, in that Assemblymember Didi Barrett (Assembly representative for the 103<sup>rd</sup> Assembly District) was not served.

2. The documents do not comply with the requirements of 16 NYCRR §86.3(a)(1) that the applicant submit maps at a scale of 1:24,000, in that maps at 1:30,000 scale equivalent were provided.
3. The documents do not comply with the requirements of 16 NYCRR §86.3(b)(1) that the applicant submit aerial photographs, in that the hard copy versions are lacking one sheet of the 10 pages represented as providing aerial photo coverage of the line (Figure 2-3d, page 4 of 10).
4. The documents do not comply with the requirements of 16 NYCRR §86.4(b) that the applicant indicate on appropriate maps any alternative route considered, in that map Figure 3-3 does not label facility routing Alternates 1 through 4 or the preferred and alternate switchyard sites.
5. The documents do not comply with the requirements of 16 NYCRR §86.5(b)(2)(i)-(iv) that the applicant state what efforts have been made to assure that any right-of-way avoids, or minimizes its visibility from, scenic, recreational and historic areas, areas of public view, heavily timbered areas, high points, ridge lines and steep slopes, and that the selection of any proposed right-of-way preserves the natural landscape and minimizes conflict with any present or future planned land use, in that the visual analysis must be supplemented by providing viewshed mapping to document project visibility and simulation views to demonstrate visual change that would result from installation of the facility from areas of public view.<sup>1</sup>
6. The documents do not comply with the requirements of 16 NYCRR §86.5(b)(7) that the applicant state what, if any, herbicide will be used in construction or maintenance of the proposed facility (including the volumes and manner of use), in that the applicant must describe chemicals and treatment methods and associated details.<sup>2</sup>
7. The documents do not comply with the requirements of 16 NYCRR §86.6(a) that the applicant submit design, profile and architectural drawings and descriptions of the proposed facility, including the length, width and height of any structure, in that several features were not provided, including: foundation or structural support information for steel dead-end structures; profile figures showing the height of structures and fencing at the proposed Ghent Switchyard; switchyard fencing and gate design and materials; height and materials of construction of the control house at the Ghent Switchyard; and, design drawings and details for any components, such as any portion of the tap into and extension of the National Grid Trunk line #15 to the proposed Ghent Switching Station, that will be built to National Grid specifications. .

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<sup>1</sup> Consultation with DPS staff is recommended in the development of these additional supporting materials.

<sup>2</sup> Provision of information from the latest NYSEG Long-Range ROW Management Plan and the specifications in document FOR-2012, dated September 30, 2011 and filed in Case 10-E-0155 on April 5, 2012 would meet this requirement.

8. The documents do not comply with the requirements of 16 NYCRR §86.8(b) that the applicant's statement justifying its request that the Commission refuse to apply specified substantive local legal provisions fails to show that the request cannot be obviated by design changes to the proposed facility, that the request is the minimum necessary, and that the adverse impacts of granting the request are mitigated to the maximum extent practicable.
9. The documents do not comply with the requirements of 16 NYCRR §88.1(f) that the applicant submit a detailed description of the proposed transmission line, including the design standards for each type of tower and tower foundation, in that the applicant does not address component facilities that tap into and extend National Grid Trunk line #15 to the proposed Ghent Switching Station, whereas a detailed explanation of who will own which facilities, including specific lines of demarcation, and details for any components that will be built to National Grid specifications, must be provided.
10. The documents do not comply with the requirements of 16 NYCRR §88.2)a) that the applicant furnish a description of the equipment to be installed in any switching station, in that the height and materials of construction of the control house structure proposed to be sited within the Ghent Switching Station are not addressed.
11. The documents do not comply with the requirements of 16 NYCRR §88.5 that the applicant submit a statement describing the anticipated effects of the proposed line and related facilities on television, radio and other communications systems, in that the applicant must provide information, including mapping of locations in relation to the proposed transmission facility for the seven registered communication towers within five miles of the proposed line and switching station (including FM radio, paging communications, cellular telephone and other towers).
12. In addition, the documents also do not comply with PSL §122 in that they do not comply with certain other Commission regulations establishing application requirements, given that NYSEG omitted the required information and requests waiver of the regulations. The waiver of Commission regulations constitutes a rule as defined in the State Administrative Procedure Act (SAPA) and the Commission will not be in a position to act on NYSEG's request until the notice and comment procedures specified in SAPA have been completed. The regulations for which waivers were requested are:
  - a. 16 NYCRR §86.3(a)(1)(i) regarding providing New York State Department of Transportation (NYSDOT) Topographic Edition Mapping showing the proposed right-of-way (with control points indicated), covering an area of at least five miles on either side of the proposed facility location;
  - b. 16 NYCRR §86.3(a)(1)(ii) regarding mapping showing where the construction or reconstruction of the proposed facility would necessitate permanent clearing or other changes to the topography, vegetation or man-made structures;
  - c. 16 NYCRR §86.3(a)(1)(iii) regarding maps showing the location of sensitive archeological sites;

- d. 16 NYCRR §86.3(a)(2) regarding providing New York State Department of Transportation 1:250,000 scale mapping;
- e. 16 NYCRR §86.3(b)(1)(iii) regarding submission of aerial photographs showing the location of access and maintenance routes;
- f. 16 NYCRR §86.4(b) regarding indication, on NYSDOT maps, of any alternative route considered; and
- g. 16 NYCRR §88.4(a)(4) regarding provision of appropriate system studies, showing expected flows on the line under normal, peak and emergency conditions.

Appendix A to this letter contains requests for additional information. While not necessarily required by the Commission's regulations, the provision of the requested information will facilitate the review process.

Please note that NYSEG is required to serve a copy of the information it files as a supplement, in order to remedy the deficiencies identified herein, on all parties entitled to receive a copy of the application pursuant to PSL §122(2) and 16 NYCRR §85-2.10(a), as well as any additional parties on the Party List in this proceeding. NYSEG is also required to file copies of the supplement with the Commission (in such number and format as I direct), together with proof of service on the parties receiving service of the supplement. For precise filing requirements for this application, you may contact me at (518) 474-6530.

If you have any questions concerning other matters discussed in this letter, please contact Andrew Davis, Utility Supervisor (Environmental), in the Office of Energy Efficiency and the Environment, at (518) 486-2853, or Ashley Moreno, Assistant Counsel or Steven Blow, Assistant Counsel, in the Office of General Counsel, at (518) 473-8123 or (518) 474-6955, respectively.

Yours very truly,

(SIGNED)

JACLYN A. BRILLING  
Secretary

Enclosure

cc: Service List  
Hon. Didi Barrett, Assemblymember for the 103rd Assembly District

## APPENDIX A: REQUESTS FOR ADDITIONAL INFORMATION

While not required for NYSEG's documents to be considered filed, or otherwise be in compliance with PSL §122; the following additional information should be provided so that the review process may be expedited more proficiently:

- A. Section 3.5.2 indicates that NYSEG and National Grid reviewed the existing National Grid Trunk #15 to determine the ideal location for a new switching station that would serve as the origination point for the new 115 kV transmission line, and identified the ideal location as to “where the existing line was nearest the Stockport/Ghent town line” (Application page 3-12): Provide the following: A list of criteria and supporting analysis used in the selection of the switching station – line origination point; all other alternative locations considered should be identified and mapped; any supporting analysis of those alternatives considered, but not included as “reasonable”, should be provided. Additional information explaining the rationale and basis for rejection of the KlineKill – ValKin transmission line connection to National Grid should also be provided; include all work papers, decisional memoranda and correspondence between NYSEG and National Grid.
- B. Section 3.5.3 entitled “the 34.5 kV Alternative” provides an explanation of sub-transmission level facilities that could be used to address the stated need for the facility: Provide analysis of line locations and facilities needed for the 34.5 kV alternatives, including maps and descriptions of cost estimates, should be provided.
- C. Section 3.5.4 entitled Alternative Transmission Line Technologies provides one sentence dismissing underground cables as “not considered for the Project due to the high cost and additional environmental impacts of underground construction” (Application, page 3-13). Provide analysis developed to support the rejection of underground construction technologies as stated in the application..
- D. Section 4.5.2.1.1: Provide, as available from NYSDEC, the rating forms and analysis of wetlands classification criteria, used for the NYS-regulated wetlands in this project study area.
- E. Section 4.5.2.1.1 and 4.5.2.2: Provide wetland delineation mapping and reports for wetlands occurring on the facility location, where NYSEG has existing access rights (along corridor shared with facility #984 south of KlineKill substation). Also, provide identification of areas where invasive species of concern to NYS occur along that shared ROW corridor.
- F. Section 4.8.3: Provide mapping of soils locations using available soils classifications that demonstrate locations within study area that have any of the following characteristics: hydric soils; shallow depth to bedrock; shallow depth to groundwater; Prime Farmland soils; and Farmland of Statewide Importance.

- G. Section 4.9.2: Provide the following:
- site photos of the Kline Kill stream crossing locations at the existing NYSEG ROW and areas proposed for the new facility adjoining the existing NYSEG ROW; and
  - (2) An analysis of the need to install any stream crossing facilities for facility construction or for permanent ROW access across the KlineKill stream.
- H. Section 4.10.4: Provide an analysis of whether local noise regulations otherwise applicable to the project location apply to construction activities.
- I. Section 5.2: Identify the criteria that will be applied in choosing locations for “dead-end” structures. Identify potential locations for dead-end structures based on application of appropriate criteria.  
Provide a detailed description of National Grid's participation in planning, construction, financing, operation and maintenance of specific portions of proposed facilities.
- J. To support the application conclusions regarding the requirements of §86.5(b)(2)(ii), (iii) and (iv): Provide the following:
- photographs, descriptions and analysis of views of the proposed facility location from areas of public view including: road crossing locations; resource locations listed in Table 4-3; areas of potential project visibility from SASS areas within the project study area; estimates of tree and vegetation heights considered to provide visual screening from areas of public views; simulation views of facility from areas identified as potentially having facility visibility from locations listed in Table 4-3 and locations in SASS areas.
  - an assessment of the project's visual impact on Historic Resources; an assessment of visual impact on buildings that are potentially eligible for listing on the State or National Register(s) of Historic Places, within areas determined to have potential views to the project (from viewshed analysis required above) and within a one mile distance from the proposed facility location.
- K. The centerline profile of the ROW is provided pursuant to §86.6(c); however, the format size of the figure is too small to be useful: a larger format printout and data files of elevation information should be provided.
- L. As required by §86.7, Exhibit 6 provides a statement and brief analysis of economic effects: Provide: clarification as to whether NYSEG will seek easements for ROW or it will negotiate for purchasing fee-owned ROW. This issue should be clarified separately for both the NYSEG and National Grid portions of the facility, as appropriate.  
Furthermore, the applicant should specify: (1) any restrictions on land uses for ROW to be acquired; (2) setback provisions that may apply for safe clearances and how they may affect land use; (3) analysis of effects on electric transmission ROW on property valuation generally.
- M. Regarding §86.10 Exhibit 9; Cost of the proposed facility: Provide an explanation of whether any or all costs of component facilities may be transferred to National Grid, for the extension of National Grid Trunk line #15, will be reimbursed by National Grid.

- N. Provide a supplement to §88.4 Exhibit E-4: Engineering justification that elaborates on the planning criteria and that is understandable to the average reader.
- O. To supplement the information provided to address §88.6 Exhibit E-6: Effect on transportation, provide an analysis based on the clearance requirements of NYSDOT regulations at 17 NYCRR Part 75 pertaining to obstruction clearances for privately owned airports to support the application's conclusions regarding obstructions to air navigation.
- P. Provide a detailed description of National Grid participation in planning, construction, financing, operation and maintenance of specific portions of proposed facilities.
- Q. Provide copies of municipal franchise agreements for electric facilities in the municipalities crossed by the proposed facilities.
- R. Provide GIS shape files of facility location and other original coverages developed by the applicant or its consultants for analysis in the application
- S. Indicate the witnesses sponsoring Appendices A and B.