

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 16, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 12-E-0503 - Proceeding on Motion of the Commission to
Review Generation Retirement Contingency Plans.

ORDER DETERMINING SIGNIFICANCE AND REQUIRING
THE PREPARATION OF A GENERIC
ENVIRONMENTAL IMPACT STATEMENT

(Issued and Effective May 21, 2013)

BY THE COMMISSION:

INTRODUCTION

We instituted this proceeding to develop contingency plans addressing reliability concerns that may arise with the retirement of electric generation facilities. As explained below, we have focused on the possibility that the Indian Point Energy Center (IPEC) may not be available to generate electricity at the end of 2015, upon the expiration of its Nuclear Regulatory Commission licenses. We anticipate that we will be asked in the future to review and approve a contingency plan addressing that possibility.

We find that the Commission is Lead Agency for this action pursuant to the State Environmental Quality Review Act (SEQRA). There are no other "involved agencies," and the action

contemplated is an "unlisted action," both as defined in 6 NYCRR Section 617.2.

Staff prepared an Environmental Assessment Form (EAF) describing the potential impacts of the action. After considering the EAF, we conclude that the action may have a significant adverse impact on the environment. We therefore will issue a positive declaration pursuant to SEQRA and notice that a Generic Environmental Impact Statement (GEIS) will be prepared.

BACKGROUND AND DESCRIPTION OF THE ACTION

On November 30, 2012, we instituted a proceeding to review generation retirement contingency plans and sought a Reliability Contingency Plan addressing the electric reliability impacts that could occur if IPEC was no longer available to generate electricity upon the expiration of its existing licenses at the end of 2015.¹ We directed Consolidated Edison Company of New York, Inc. (Con Edison), in consultation with the New York Power Authority (NYPA), Department of Public Service Staff (DPS Staff), and other appropriate agencies, to develop the IPEC Reliability Contingency Plan. The conceptual plan presented to us on February 1, 2013, envisages resolving the reliability impacts with a combination of new generation and transmission resources and a demand response program targeted at demand in New York City. NYPA has recently undertaken a procurement process to identify resources that will meet that goal. We have directed DPS Staff to evaluate the projects that

¹ Case 12-E-0503, Generation Retirement Contingency Plans, Order Instituting Proceeding and Soliciting Indian Point Contingency Plan (issued November 30, 2012).

are submitted for review in connection with that procurement, and to recommend projects for inclusion in the final plan.²

We expect that the proponents of the plan (Consolidated Edison and NYPA) are likely to seek approval from us for implementation of some or all of the plan's elements, including development activities related to one or more generation or transmission projects. However, our approval of the plan does not include specific approval for the construction or operation of any facilities that may be identified as part of the final plan. Each facility, if constructed, will be subject to project-specific environmental review requirements under Article VII or Article 10 of the Public Service Law, or pursuant to SEQRA. Rather, the action we contemplate here is the approval of a final plan that may induce subsequent activities that are likely to have an adverse impact on the environment. Thus, SEQRA requires that we assess those potential impacts.

We find that preparation of a generic environmental impact statement (GEIS) is appropriate in this instance because our approval of the program defined in the plan is the kind of action described in 16 NYCRR Part 617.10(a) and will not itself cause a direct adverse impact on the environment at any specific location. We do not, at this stage, know what specific projects may ultimately be constructed as a result of our approval of the plan; we know only that the plan will include a portfolio of generation and transmission projects and a demand response program. A GEIS will allow us to present and analyze, in general or conceptual terms, the scenarios that are likely to

² Case 12-E-0503, Generation Retirement Contingency Plans, Order Upon Review of Plan to Advance Transmission, Energy Efficiency, and Demand Response Projects (issued April 19, 2013), pp.14-15.

occur as a result of the action, and to identify and assess the potential environmental impacts of those scenarios.

The Commission orders:

1. A Notice of Determination of Significance regarding the approval of a Reliability Contingency Plan for potential generation retirement shall be issued by the Secretary in accordance with the requirements of 6 NYCRR Part 617.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 12-E-0503 - Proceeding on Motion of the Commission to Review
Generation Retirement Contingency Plans.

NOTICE OF DETERMINATION
OF SIGNIFICANCE

NOTICE is hereby given that a Generic Environmental Impact Statement will be prepared in connection with a proposed action by the Public Service Commission to approve a contingency plan to address reliability concerns arising from the potential unavailability of generating capacity of the Indian Point Energy Center. This is based on the Commission's determination, pursuant to Part 617 of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act of the Environmental Conservation Law, that such action may have a significant adverse impact on the environment. The action contemplated is an "unlisted action" as defined in 6 NYCRR Section 617.2.

The address of the Public Service Commission, the lead agency for purposes of environmental quality review of this action, is 3 Empire State Plaza, Albany, New York 12223-1350. For further information contact Christina Palmero at (518)474-1612.

JEFFREY C. COHEN
Acting Secretary

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**CASE 12-E-0503 - Proceeding on Motion of the Commission to Review
Generation Retirement Contingency Plans.**

ENVIRONMENTAL ASSESSMENT FORM

**Prepared By:
THE DEPARTMENT OF PUBLIC SERVICE**

**Dated: Albany, New York
May 2, 2013**

**State Environmental Quality Review
Environmental Assessment Form**

I. Introduction

An environmental assessment is an evaluation of the known or potential environmental consequences of a proposed action. Such an assessment also determines whether additional relevant information about such impacts is needed. Environmental assessments help involved and interested agencies identify their concerns about the action and provide guidance to the lead agency in making its determination of significance. This document provides the substantive information solicited by Appendix C of 6 NYCRR §617.20, of the implementing regulations pertaining to Article 8 of the State Environmental Quality Review Act ("SEQRA") of the New York Environmental Conservation Law.

An Environmental Assessment Form ("EAF") provides an organized approach to identifying the information needed by the lead agency to make its determination of significance. A properly completed EAF describes a proposed action, its location, its purpose and its potential impacts on the environment. The EAF is the first step in the environmental impact review process and leads to either a positive declaration (requiring further analysis of the environmental impacts) or a negative declaration (requiring no further action) of potentially significant adverse environmental impact(s).

II. Environmental Assessment Form Information (Part I of EAF)

A. Applicant / Sponsor:

**New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223**

B. Name of Action:

Public Service Commission approval of a reliability contingency plan to address reliability concerns in the event that electric generation capacity at the Indian Point Energy Center is no longer available.

C. Location of Action:

New York State

D. Description of Action:

A proceeding has been instituted by the Commission, in Case 12-E-0503, to develop a contingency plan to address reliability concerns arising from the potential unavailability of electric generation capacity of the Indian Point Energy Center (IPEC) upon the expiration of its operational licenses at the end of 2015. The Commission is requiring Consolidated Edison Company of New York, Inc. (Con Edison), in consultation with the New York Power Authority (NYPA), Department of Public Service Staff (DPS Staff), and other appropriate agencies, to develop the IPEC Reliability Contingency Plan. The IPEC Reliability Contingency Plan includes three components: 1) new generation and transmission solutions; 2) Transmission Owner Transmission Solutions (TOTS); and 3) reduction of 100 MW through an Energy Efficiency/Demand Reduction/Combined Heat and Power (EE/DR/CHP) set-aside program.

The action does not include specific approval for the construction or operation of any facilities; therefore, site-specific land use and regulatory impacts, including compliance with existing zoning or other restrictions are not applicable to this evaluation.

III. Evaluation of Environmental Impacts (Part 2 of EAF)

The described action is not likely to cause any direct environmental effects, because the action alone does not involve physical activities that might have impacts on the environment. Instead, the action would likely induce subsequent activities that may have adverse impacts on the environment. This environmental assessment sets out an evaluation of a range of conceivable secondary consequences of the action. The evaluation relies on qualitative judgments as to the potential changes resulting from the proposed actions and the magnitude and importance of the corresponding potential environmental impacts.

A. Impact to Air

The implementation of the action is likely to induce subsequent activities that increase the reliance on electricity generated by the combustion of natural gas which, in turn, may result in increases in air pollution emissions.

B. Impact to Water

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be the need to conduct work in environmentally sensitive areas such as wetlands, streams, rivers or other water bodies and there might be increased runoff to these resources due to land disturbance. With such new construction, there could be the potential for introducing overhead, underground, above-water and underwater structures into the landscape. While this work could potentially

impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the Public Service Law (PSL) or a SEQRA review prior to construction.

C. Impact to Land

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be the need to clear and regrade land with the potential for soil erosion due to land disturbance and other interference with existing land uses. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

D. Impact on Plants and Animals

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities and new electric transmission facilities. With such new construction, there could be the need to clear and regrade land with the potential for loss of habitat due to land disturbance and other operational interference with terrestrial and aquatic resources. While this work could potentially impact the environment, it would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

E. Impact on Agricultural Land Resources

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be the need to clear and regrade land with the potential for loss of farmland, soil erosion due to land disturbance and other operational interference with existing agricultural uses. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

F. Impact on Aesthetic Resources

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be the potential for introducing visually obtrusive structures into the landscape. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

G. Impact on Historic and Archeological Resources

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be the need to clear and regrade land with the potential for disturbance of archeological resources and the potential for introducing visually obtrusive structures into a historic landscape. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

H. Impact on Open Space and Recreation

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be a potential loss of open space and recreation lands and the potential for introducing visually obtrusive structures into an open space or recreational landscape. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

I. Impact of Critical Environmental Areas

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there is the potential for disturbances to critical environmental areas during construction and operation of such facilities. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

J. Impact on Transportation

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities. With such new construction, there could be the potential for temporary disturbance of transportation facilities during construction. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

K. Impact on Energy

The implementation of the action is intended to and would likely induce subsequent activities that result in reduced reliance on electricity generated by nuclear power and increased reliance on electricity generated by combustion of natural gas and the use of renewable resources. Switching to other generation sources will likely ensure continuation of reliable electricity service to customers.

L. Noise and Odor Impact

The implementation of the action would likely induce subsequent activities that result in the siting and construction of new electric generation facilities, and new electric transmission facilities to serve the new generation sites. With such new construction, there could be the potential for the introduction of new sources of construction and operation noise and odors into the landscape. While this work could potentially impact the environment, any site-specific construction would be subject to all current environmental regulatory requirements under Article VII or Article 10 of the PSL or a SEQRA review prior to construction.

M. Impact on Public Health

Implementation of the action could induce subsequent activities that increase air pollution emissions that may result in increased asthma and other respiratory impacts on human beings.

N. Impact on Growth and Character of Community or Neighborhood

Implementation of the action could induce subsequent activities that result in increased electric commodity prices in New York State.

IV. Significance of Environmental Impacts

Implementation of the action may have a significant adverse impact on the environment; therefore, a positive declaration will be prepared.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different)