

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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Application of Champlain Hudson Power :
Express, Inc. for a Certificate of :
Environmental Compatibility and Public : CASE 10-T-0139
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. :
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SUPPLEMENTAL BRIEF ON BEHALF OF
CENTRAL HUDSON GAS & ELECTRIC CORPORATION

To: The Hon. KEVIN J. CASUTTO and
The Hon. MICHELLE L. PHILLIPS,
Presiding Administrative Law Judges

I. PRELIMINARY STATEMENT

As authorized by the Presiding Administrative Law Judges' Ruling On Motion To Incorporate Or Notice (Issued October 10, 2012) ("Ruling"), this supplemental brief is submitted on behalf of Central Hudson Gas & Electric Corporation ("Central Hudson"). In accordance with the Ruling (at 3), this supplemental brief provides Central Hudson's "evaluation of[] the Final RNA as it pertains to the issues in contention in this proceeding."

The issues in this proceeding include whether the facility proposed by the Applicants, as configured in the contested Joint Proposal and Certificate Conditions currently pending before Your Honors, "conforms to a long-range plan for expansion of the electric power grid of the electric systems serving this state

and interconnected utility systems, which will serve the interests of electric system economy and reliability" (emphasis added), as is required by § 126(d)(2) of the Public Service Law.

The NYISO's RNA analyses are one part of the NYISO's processes for determining whether the electrical system will be capable of meeting minimum reliability criteria in the future.¹ Once a final NYISO RNA finds that a reliability need exists, the NYISO follows section 31.2.4 ("Development of Solutions to Reliability Needs") and 31.2.5 ("ISO Evaluation of Proposed Solutions to Reliability Needs") of the tariff to determine whether any proposed "solutions" will cure, or partially cure, the specific identified reliability need. As shown by the following portions of the NYISO tariff applicable to "market based solutions," the NYISO does not consider economics as part of its determinations.²

31.2.4.4 Qualifications for a Valid Market-Based Response

The submission of a proposed market-based solution must include: (1) evidence of a

¹ See: http://www.nyiso.com/public/webdocs/documents/tariffs/oatt/oatt_attachments/att_y.pdf

² Central Hudson assumes for limited purposes of this discussion, but does not concede, that the proposed CHPEI facility may be a potential market based solution.

commercially viable technology, (2) a major milestone schedule, (3) evidence of site control, or a plan for obtaining site control, (4) the status of any contracts (other than an Interconnection Agreement) that are under negotiation or in place, (5) the status of any interconnection studies and an Interconnection Agreement, (6) the status of any required permits, (7) the status of equipment procurement, (8) evidence of financing, and (9) any other information requested by the ISO.

31.2.5.3 Evaluation of Market Based Proposals

The ISO shall review proposals for market-based solutions and determine whether they resolve a Reliability Need. If market-based solutions are found by the ISO to be sufficient to meet a Reliability Need in a timely manner, the ISO will so state in the CRP. The ISO will not select from among the market-based solutions if there is more than one proposal which will meet the same Reliability Need.

The NYISO's evaluations for a market based response only include reliability, not economics. As a result, a determination by the NYISO that a market based response meets a Final RNA reliability need does not meet the statutory test in § 126(d)(2). Those evaluations cannot determine that the market based response "conforms to a long-range plan...[that] serve[s] the interests of electric system economy and reliability" (emphasis added) as the statute requires.

Accordingly, the Final RNA and any future NYISO evaluation of the CHPEI proposal as a potential "market based solution" do not provide a basis to support the required statutory finding in § 126(d)(2) concerning the CHPEI proposal, which the Joint Proposal and Applicants statements alike have repeatedly emphasized is market based.

Respectfully submitted,

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