

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 the Business Council of the State of New York
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 the Business Council of New York State.

Respectfully submitted,

Darren Suarez
Business Council of New York State
152 Washington Ave.
Albany, NY 12210

STATE OF NEW YORK
Case 10-T-0139
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.

**BRIEF ON EXCEPTIONS OF
THE BUSINESS COUNCIL OF THE STATE OF NEW YORK.**

Darren Suarez
Business Council of New York State
152 Washington Ave.
Albany, NY 12210

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.

The Business Council of New York State, Inc (“The Business Council”) a statewide organization representing employers of all sizes in all of the state’s economic sectors, respectfully submits the following comments.

Contrary to the ALJ’s conclusion, the Business Council of New York State after significant deliberation concludes that significant unaddressed issues regarding this project warrant the rejection of the ALJ’s findings in the RD and a Certificate should not be issued. Additionally, recently in New York, there has been a commitment to ensure that New York’s energy grid is the most advanced in the nation and promotes increased business investment in the state to that end the Commission is considering the following cases 12-T-0502 [Alternating Current Transmission Upgrades]; 12-E-0503 [Review of Generation Retirement Contingency Plans]; and 12-G-0297 [Expansion of Natural Gas Service]. The outcome of these cases could amend the need for the facility. As we enter an unprecedented period of thought and consideration between the interplay between customer needs, system reliability, fuel switching, community needs, and the environment it is untimely to advance this project which is not need to address demand for some time.

Need for the Facility

PSL Article VII need is determined by examining numerous factors, including system reliability benefits, economic benefits for customers and the State, and the achievement of public policy goals. The Business Council questions the applicant’s demonstration that the project will contribute to system reliability, or economically benefit customers. We are certain that the project does not advance the public policy goal of expand transmission to carry excess power from upstate to downstate.

The Project Cost Savings Are Not Demonstrate Convincingly

The Applicant at numerous occasions has promoted the Project as an opportunity to realize estimated wholesale energy market savings. If the projected wholesale energy market savings cannot be delivered the Project simply cannot be the public’s interests.

There is ample concern that (1) the Project cost estimates are not reflective of the current market, (2) the economic analyses projecting ratepayers savings is fundamentally flawed, (3) the Applicant has failed to provide an agreement for the purchase of the energy (4) the Applicant has overestimated job creation while not considering potential job loss and in-state generation or as a result of in-state transmission upgrades.

Numerous parties have expressed concerns about the Applicant's estimates of the Project costs. Specifically, the New York Power Authority expressed it was "concerned about the accuracy of CHPE's current estimates of its projected construction costs and the results of its cost/benefit analysis. Based upon NYPA's experience, the construction costs are significantly underestimated and the cost benefits are significantly overestimated in light of current projections of load and electric prices."¹

Con Edison has identified that when calculating the cost of the benefits of the project "Staff failed to consider the cost of transmission from the generation plants in Canada to the U.S.-Canadian border, which could add another \$2 billion to the cost of the Project, bringing its total cost to approximately \$11 billion"²

It follows that Con Edison determined the breakeven point for the Project would be close to \$300/MWh³ which is \$248/MWh higher than the 2009-2011 average market price in New York City.⁴

Additionally, an expert witness from IPPNY has been committed to identify, and then correct for, substantial errors in the assumptions that Staff and the Applicant used in both their production cost savings and ratepayer savings analyses.⁵

There is ample reason to warrant significant review of the Applicant's projected cost savings, as the cost savings are a cornerstone to the justification of the Project. If the cost of the Project far exceeds the revenues that the Applicant could likely earn for the foreseeable future, the Applicant may attempt to shift the risks and costs of the Project from the Applicant to utility customers; this would be the most undesirable outcome.

Incremental costs to Central Hudson resulting from the placement of the Applicants facility on top of Central Hudson infrastructure

A stretch of CHPE is projected to traverse five electric and five gas Central Hudson transmission facilities. The transmission facilities are located either on the bottom of the Hudson River or more deeply into sub-river soils. These facilities range in age from 20 to 83 years.⁶

¹ New York Power Authority Statement in Neither Support or Opposition March 16, 2012

² Con Edison Statement in Opposition to JP p.4

³ Ibid p.5

⁴ Ibid

⁵ IPPNY's Statement in Opposition

The Business Council is troubled because Central Hudson has indicated that “locating a new HVDC electric facility directly above and in close proximity to their transmission facilities would affect Central Hudson's pre-existing infrastructure by altering the access Central Hudson currently has, thereby increasing Central Hudson's operating costs of maintenance and repair of the affected facilities in the vicinity of the crossings and its capital costs of replacement.”⁷ If the Applicant does not hold harmless Central Hudson for any incremental cost resulting from the placement of the HVDC electric facility, Central Hudson ratepayers would be responsible for the increased costs.

The Business Council supports Central Hudson's request that the Applicants agree to accept responsibility for the incremental costs to Central Hudson resulting from the placement of the Applicants facility on top of Central Hudson's in-river facilities.⁸ If the Applicant accepted such responsibility their stranded cost would not be borne by Central Hudson's ratepayers.

Current Commission Proceedings

The Commission, in the pursuit of congestion relief and reliability enhancement and the other ratepayer benefits, has instituted a proceeding to solicit proposed projects from developers and transmission owners proposing projects that will increase transfer capacity through the congested transmission corridor. The Commission has also invited developers and transmission owners contemplating alternative transmission facilities that meet the objectives but do not require Article VII Certificates to submit Statements of Intent and schedules for the submission of any necessary permit applications.

Additionally on January 17th the Commission directed National Grid to evaluate repowering as an alternative outcome for the Dunkirk generating station and NYSEG to do the same for the Cayuga generating stations. The closing of the power plants could cause reliability concerns. The companies will examine the relative costs and benefits of repowering the plants at their existing sites compared to alternative transmission upgrades over the long term. The benefits to be evaluated include the reliability, environmental, and customer impacts associated with the repowering and transmission solutions.

The coal-fired Dunkirk generating station located in Chautauqua County, New York, consists of four units with combined nameplate rating of over 635 megawatts (MW). Units 1 and 2 are each rated at 100 MW and Units 3 and 4 are each rated 217.6 MW. The Cayuga facility located in Lansing, New York, consists of two coal-fired units with a combined capacity of over 312 MW. Unit 1 has a net capacity rating of 154 MW and Unit 2 of 158.7 MW.⁹

⁶ Central Hudson Gas & Electric Statement in Opposition to JP March 16 (p.2)

⁷ Ibid p.4-5

⁸ Ibid (p.6)

⁹[http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/ArticlesByCategory/5748C0ECA6CF6D6C85257AF6005B443D/\\$File/pr13003.pdf?OpenElement](http://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/ArticlesByCategory/5748C0ECA6CF6D6C85257AF6005B443D/$File/pr13003.pdf?OpenElement)

A true determination of need cannot be made until the conclusion of these proceedings. The results of the proceeding have the potential to significantly affect the need of this project.

Conclusion

The Business Council continues to believe that the proposed project is not in the best interest of New York State as a whole. At this time approving the project would be premature. The project should be evaluated and considered after the conclusion of numerous ongoing commission proceeding. The level of commission activity is unprecedented and provides the wrong time for the state consider this project.

The Business Council concludes that with the demonstrated deficiency of prevalent benefit and long-term strategic harm to the existing transmission grid from the Commission at this time should reject the JP and the project.

Respectively,

Darren Suarez
Business Council of New York State
152 Washington Ave.
Albany, NY 12210