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September 7, 2012

Via e-mail

Honorable Jaclyn A. Brillling, 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

Reply Brief of International Brotherhood of Electrical Workers, Local 97
in the Above Proceeding

Dear Secretary Brillling:

Pursuant to the Ruling Establishing Schedule and Hearing Procedures, issued May 8, 2012, enclosed please find an electronic file in .pdf format containing the Reply Brief 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

**REPLY BRIEF OF LOCAL 97, INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS IN THE ABOVE PROCEEDING**

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Dated: September 7, 2012
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

Reply Brief of Local 97, International Brotherhood of Electrical Workers Opposing the Joint Proposal dated February 24, 2012

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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

**Reply Brief of Local 97, International Brotherhood of Electrical Workers
Opposing the Joint Proposal dated February 24, 2012**

Introduction

On August 22, 2012, Initial Briefs were filed by certain parties to this proceeding, including IBEW, Local 97. This Reply Brief of International Brotherhood of Electrical Workers, Local 97 ("Local 97" or "Union") responds to the briefs of the Applicants and the Staff of the Department of Public Service.

Local 97 continues to conclude that Commission approval of the JP would only benefit a small segment of New Yorkers, energy users in New York City, and if adopted by the Commission would be inimical to mid and upstate electric generators as well as Local 97 and its membership. It is respectfully recommended that that Commission thoughtfully consider the following points, as well as the briefs of the parties opposing the Project, and reject the Joint Proposal in this proceeding.

Point 1: Basis of the Need and Related Cost Issues

In both the Applicants' and Staff's Initial Briefs, benefits to consumers of New York State are referenced in general terms, with reference to limited specific benefits regarding the reduction of wholesale market prices testified to by Applicants' witness Frayer.¹ Staff cited other benefits, cost savings and economic analyses.² The Applicants' Initial Post Hearing Brief also cites specific studies and testimonies of Applicants'

¹ Staff's Initial Brief at 7-8 and Initial Post Hearing Brief of Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. at 5-7.

² Staff's Initial Brief at 12-13, 19, 36-37, 43-46 and 48-49.

witness Frayer and Staff witnesses Paynter, Gjonaj and Wheat³, but neither address concerns raised by Independent Power Producers of New York (“IPPNY”) who cited studies by Charles River Associates International which question the need and the economics of the Facility⁴ which have not been adequately addressed by the Applicants or Staff.

There continues to be a failure to adequately address any comparison of the proposed Project to the costs and benefits of undertaking an alternative project that would alleviate the congestion in the top three groupings of transmission elements of the New York Control Areas illustrated in New York Independent System Operator 2011 Assessment and Resource integration Study, *Comprehensive System Planning Process*, CARIS – Phase 1, Final Report, March 20, 2012, Hearing Exhibit No. 219, which were determined consistent with the CARIS procedures.⁵

In their Initial Post Hearing Brief, the Applicants state that any recommendation to reject the Applicants’ Facility in favor of increased investment in generation and/or upgrades to the HVAC transmission poses a false dichotomy and that the only issue before the Commission is whether the Applicants’ Facility is in the public interest and should be granted a certificate.⁶ The fact of the matter remains that there has been inadequate analysis and action to alleviate the congestion in the top three groupings of transmission elements of the New York Control Areas and the focus of the analyses of the Project supporters was on the Project itself rather than what would be the best method

³ Initial Post Hearing Brief of Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. at 19-20, 23-25, 32-40, 78-79, 81-82, 84-100 and 102.

⁴ Initial Statement of Independent Power Producers of New York in Opposition to the Joint Proposal, dated March 16, 2012 at 6.

⁵ Hearing Transcript at 222, lines 2-18 and 408, line 21 through 410, line 17; and Hearing Exhibit No. 219 at 7.

⁶ Initial Post Hearing Brief of Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. at 104-105.

and potential alternative to alleviate the congestion existing on New York's transmission system to benefit all New Yorkers. While the petitioners have quantified cost benefits in this case they have not adequately addressed the inimical impacts that the proposed project would have on existing electric generators, present owners of transmission facilities within upstate an central New York and the resulting inimical impact on other New York State stakeholders including upstate electric customers and represented labor.

If, arguendo, the ALJs and/or the Commission do not agree that this concern is applicable to a basis upon which the Applicants' Facility should be rejected, Local 97 believes that the general transmission congestion problem between upstate and downstate that has existed in New York for over a decade, should be addressed outside of this proceeding and corrected for the benefit of all New Yorkers.

Point 2: Other Considerations

Staff's Initial Brief opines that

The Facility is consistent with the most recent State Energy Plan, which establishes as policy objectives that the state of New York will support increased use of renewable energy and energy systems that enable the state to significantly reduce greenhouse gas emissions.⁷

Contrary to Staff's opinion, and as stated in Local 97's Initial Brief, renewable energy wind projects consistent with the portfolio standard in New York are predominately being developed in the northern and western parts of the state, while the population centers of southeastern New York (NYC) are regions with the highest demand for electricity. In 2010 the NYISO conducted a wind study that found that more than 90 percent of the potential wind energy production from upstate New York would be deliverable to the

bulk system, if upgrades were made to the bulk transmission system.⁸ Upgrading the existing transmission system and tens of thousands of associated jobs would become a very low probability if revenues go instead to the alternative CHPEI 1000 MW foreign import project.⁹ In Local 97's opinion, the Applicants' Facility is contrary to the State Energy Plan by abandoning existing wind facilities in New York.

The Applicants' Facility's failure to provide access to New York's valuable generation resources is contrary to the policy laid out by Governor Cuomo in his State of the State address on January 4, 2012. The Governor's message then expressly encouraged development of an "energy highway" to provide the State's generation surplus in Western and Upstate New York with a means to reach load centers in the Downstate region.¹⁰ The Applicants' Facility would put hundreds of existing well paying and critically needed jobs at substantial risk. In addition, millions of dollars in property taxes and other payments made to municipalities by New York's generators would be eliminated.

Governor Andrew Cuomo spent a good part of his second "State of the State" address focusing on ways to improve the state's infrastructure to help create jobs. The Governor announced a plan to build a private sector funded \$2 billion "Energy Highway" system that will tap into the generation capacity and renewable energy potential in Upstate and Western NY to bring low-cost power to meet downstate energy needs.

⁷ Staff's Initial Brief at 34.

⁸ Power Trends 2011: Energizing New York's Legacy of leadership, New York Independent System Operator

⁹ Initial Brief of International Brotherhood of Electrical Workers, Local 97 at 12.

¹⁰ Building a New NY ...with you, 2012 State of the State Address, Governor Andrew M. Cuomo, January 4, 2012 at 12-13.

Noting the recent Article X legislation passage, the plan also calls for the repowering of old and dirty plants to stop pollution in urban neighborhoods.¹¹

Conclusion

The Applicants' Facility is not in the best interest of the public of New York State. 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 Brief, the Union respectfully recommends that the Commission reject the JP and the Applicants' Facility. To do otherwise would be seen as the Commission being willing to export jobs and economic opportunity in exchange for a short term fix to a long-term electric power congestion problem.

Dated: September 7, 2012
Ridgefield, Connecticut

Respectfully Submitted,

/s/ Richard J. Koda

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¹¹ Building a New NY ...with you, 2012 State of the State Address, Governor Andrew M. Cuomo, January 4, 2012 at 12-13