

**BEFORE THE
PUBLIC SERVICE COMMISSION
STATE OF NEW YORK**

_____))
Application of Champlain Hudson Power)
Express, Inc. and CHPE Properties, Inc. for)
a Certificate of Environmental Compatibility)
and Public Need Pursuant to Article VII of)
the Public Service Law for the Construction,)
Operation and Maintenance of a High-)
Voltage Direct Current Circuit from the)
Canadian Border to New York City.)
_____)

Case No. 10-T-0139

**REQUEST OF CERTIFICATE HOLDERS FOR
RECONSIDERATION OF CERTAIN PORTIONS OF THE COMMISSION'S
NOTICE REGARDING ENTERGY PETITION FOR REHEARING**

Pursuant to Rule 3.6 of the Commission's Procedural Rules, 16 N.Y.C.R.R. § 3.6 (2013), Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (collectively, the "Certificate Holders") respectfully submit this Request for Reconsideration of Certain Portions of the Notice Regarding Entergy Petition for Rehearing (the "Notice") issued in this proceeding on May 23, 2013.

INTRODUCTION AND BACKGROUND

In the Notice, the Commission correctly noted that Entergy Nuclear Power Marketing, Inc. and Entergy Nuclear FitzPatrick, LLC (collectively "Entergy") filed its request for rehearing of the Commission's April 18, 2013 Order Granting Certificate of

Environmental Compatibility and Public Need in this proceeding on May 21, 2013, which was one day out of time. In the Notice, the Commission provided Entergy until May 29, 2013 to demonstrate that its rehearing request was in fact filed on a timely basis or to explain why good cause existed for the Commission to accept that rehearing request for filing out of time. The Notice also provided other parties in this proceeding with the right to respond to Entergy's submission on June 4, 2013 and stated that a further Notice would thereafter be issued advising the parties whether Entergy's rehearing request would be accepted for filing and, if so, establishing dates for the submission of responses in opposition to Entergy's rehearing request.

RECONSIDERATION REQUEST

Certificate Holders fully support the Commission's finding that Entergy's rehearing request appears to have been filed out of time and the Commission's decision to provide Entergy with an opportunity to explain why its rehearing request should be regarded as having been filed on a timely basis or should be accepted out of time for good cause shown.¹ Certificate Holders are concerned, however, that if the Commission should refuse to accept Entergy's rehearing request in an order issued prior to the issuance of an order addressing the issues raised in Entergy's rehearing request, such action could delay the final resolution of this proceeding unnecessarily.

Specifically, Certificate Holders believe that it is highly likely that Entergy will appeal any final order issued by the Commission in this proceeding, including an order

¹ Certificate Holders' support of the Commission's actions in this regard should not be construed as support for Entergy's claims, but rather as support for the Commission's decision to grant Entergy a fair chance to prove its claims. Accordingly, Certificate Holders reserve all their rights with respect to whatever claims Entergy may advance in defense of its actions in filing its rehearing request one day out of time.

rejecting Entergy's rehearing request as untimely, which would terminate this proceeding since no other rehearing requests were filed. While it is unlikely that the courts would overturn such a Commission order, in the unlikely event that this order was overturned, the result would be a remand to the Commission to address the substance of Entergy's rehearing petition. If Entergy appealed that order as well, the time required for the Commission's decision in this proceeding to become administratively final could be needlessly and unfairly extended by months if not years.

The Commission can and must avoid this unfair result by reconsidering its determination to issue a further Notice addressing the timeliness of Entergy's rehearing request and by ruling instead that it will decide that issue in its order addressing the substantive claims raised by Entergy in its rehearing request. Accordingly, Certificate Holders respectfully request that the Commission accept Entergy's response to the Notice due May 29, 2013 and that it also accept oppositions to Entergy's response on June 4, 2013, all as provided for in the Notice. Thereafter, Certificate Holders request:

- (1) that the Commission establish a date for the submission of oppositions to Entergy's rehearing request and decide the issues raised in that rehearing request in the same order in which the Commission rules on the timeliness of Entergy's filing of its rehearing request or;
- (2) alternatively, in the event that the Commission concludes that no additional pleadings addressing the issues raised in Entergy's rehearing request are required to dispose of those claims, that the Commission exercise the flexibility granted to it by Rule 3.7(c) to issue a decision denying Entergy's rehearing request prior to the submission of oppositions thereto.

In either event, any order issued by the Commission in this proceeding should address both the timeliness of Entergy's rehearing request and the substance of the claims advanced by Entergy therein. By following this simple procedure, the possibility of further proceedings on remand will be avoided.

Respectfully submitted,

/s/ George M. Pond

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