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Via Electronic Mail

Acting Secretary Jeffrey C. Cohen
New York State Department
of Public Service
Three Empire State Plaza
Albany, NY 12223

Re: CASE 10-T-0139: CHAMPLAIN HUDSON POWER EXPRESS, INC.

Dear Secretary Cohen:

Con Edison submits this letter to set forth its position on the Recommended Decision of Administrative Law Judges Kevin Casutto and Michelle Phillips (“ALJs”), issued on December 27, 2012 (the “RD”) regarding the application by Champlain Hudson Power Express, Inc. and CHPEI Properties, Inc. (“Applicants”) for a Certificate of Environmental Compatibility and Public Need under Article VII of the Public Service Law (the “Certificate”) for authorization to construct and operate Applicants’ transmission line project (the “Project”), as set forth in a Joint Proposal submitted on February 24, 2012 (the “JP”). The JP was accompanied by Proposed Certificate Conditions. The ALJs recommend that the Commission adopt the terms and conditions of the JP, as revised by Stipulations dated June 4, 2012, June 26, 2012, July 11, 2012, and October 19, 2012 and that Applicants be granted the Certificate for the Project. (RD at p. 139)

As described in the JP, the Project would consist of two High Voltage Direct Current (“HVDC”), cables capable of transmitting 1,000 MW, that would extend from the Canadian border to a voltage source converter station (the “Converter Station”), to be located on Con Edison’s Luyster Creek property in Astoria, Queens, and that would then be connected to the New York Power Authority’s (“NYPA”) 345 kV Substation at Astoria. In addition, to increase deliverability of energy out of NYPA’s substation into the Con Edison system, Applicants proposed in the JP to (i) construct a 345 kV High Voltage Alternating Current (“HVAC”) cable from NYPA’s 345 kV Substation to Con Edison’s 345 kV Rainey Substation also located in Queens, and (ii) pursue the implementation of a Special Protection System (“SPS”) or other operational measures.

As noted in the RD, Con Edison initially opposed the Project on a number of grounds. (RD at p. 6) Specifically, Con Edison raised the following objections:

1. Con Edison objected to the Proposed Certificate in that it allowed Applicants the opportunity to shift the risks and costs of the Project from their investors to utility ratepayers;
2. Applicants proposed to rely on an SPS or other operational measures to meet their energy deliverability commitment, which would have adverse reliability impacts on the New York State bulk power system;
3. Con Edison objected to the proposed siting of Applicants' Converter Station on a portion of Con Edison's Luyster Creek property that would have prevented Con Edison's planned use of this utility property to the detriment of Con Edison and its customers; and
4. Con Edison objected to the planned route of the facility through Con Edison's Liquefied Natural Gas ("LNG") plant property on the Astoria site.

However, as noted by the ALJs, Con Edison and Applicants were ultimately able to resolve all of Con Edison's objections. (RD at p. 5)

First, in a Stipulation dated, June 4, 2012, Con Edison and Applicants agreed to revise proposed Certificate Condition 15 to require that (1) the costs associated with the construction and operation of the HVDC Transmission System¹ and (2) the costs associated with the use of the Astoria-Rainey Cable by shippers also using the HVDC Transmission System on a merchant basis (collectively, the "Merchant Facilities") are to be recovered by Applicants on a purely merchant basis. The Stipulation also provides that any attempt by the Certificate Holders to recover any of the costs of the Merchant Facilities in cost-of-service rates set by a Federal or State regulatory entity, or to include any such costs in utility rate base, would result in the loss of the Certificate. (RD at pp. 68-69) Applicants also agreed to waive all their rights under section 205 of the Federal Power Act, 16 U.S.C. § 824d, to file cost-based rates with FERC for the Facility. Finally, as noted in the RD, the Stipulation also provided that prior to commencing construction of the facility, Certificate Holders must confirm that they have received binding contractual commitments from one or more financially responsible entities for no less than 75% of the facility's firm transmission service for a period of no less than 25 years. (RD at pp. 11 and 69)

Second, in a Stipulation dated, June 26, 2012 Con Edison and Applicants agreed to revise proposed Certificate Condition 133 and agreed that with (1) the installation of the Astoria-Rainey Cable and Con Edison's recently installed phase-angle regulator and a 345-kV/138-kV autotransformer (collectively, Feeder 34091); and (2) the upgrading of the 138 kV section of Feeder 34091 so as to increase the long-term emergency rating of the feeder to at least 333 MVA, Applicants would be able to meet the 1550 MW energy deliverability commitment in the JP without the need for an SPS or other operational measures. (RD at p. 132) Applicants agreed to negotiate a definitive agreement with Con Edison, pursuant to which Applicants would pay for the upgrade of the 138 kV section of Feeder 34091 if such an upgrade was required at the time the Facility commences commercial operation.

¹ The Stipulation defines the "HVDC Transmission System" as the HVDC transmission line from the Canadian border to Con Edison's Luyster Creek property in Astoria, Queens, and the Converter Station.

Third, in a Stipulation dated July 11, 2012, and an attachment to the Stipulation that shows the location and footprint of the Applicants' proposed Converter Station within Con Edison's Luyster Creek property, Applicants and Con Edison agreed that so long as the Converter Station, ring bus, and related facilities are limited to no more than 4.5 acres and are restricted to the northwestern corner of the Luyster Creek property as designated as "Subdivision Parcel A", the Luyster Creek property can accommodate both Con Edison's planned use and Applicants' proposed Converter Station. (RD at p. 100). Applicants also agreed that under no circumstances will they seek any additional lands owned or occupied by Con Edison at Astoria for the location of the Converter Station, ring bus and related facilities to be owned and operated by Applicants as part of the Facility without Con Edison's prior written consent, and acknowledged that such other properties are required by Con Edison for other purposes.

Finally, Con Edison worked with Applicants to develop a routing alternative that would go around Con Edison's LNG plant property at Astoria. The alternative route developed by Con Edison and Applicants is acceptable to Con Edison, subject to any necessary refinement in the EM&CP. The revised route is reflected in Hearing Exhibit 152, and, specifically, the portion of the route that goes around the LNG plant property is shown between miles 332.1 and 332.7 on Hearing Exhibit 152.

The Stipulations, Revised Certificate Conditions, and revised route have satisfactorily addressed all of Con Edison's objections to the Project. Accordingly, as noted in the RD, Con Edison respectfully requests that the Commission adopt, in their entirety, the: (1) June 4, 2012 Stipulation and the Revised Proposed Certificate Conditions 15 (b) and (e); (2) June 26, 2012 Stipulation and the Revised Proposed Certificate Condition 133; (3) July 11, 2012 Stipulation and its Attachment and the Revised Proposed Certificate Conditions 21 and 22(f); and (4) revised route as contained in Hearing Exhibit 152. (RD at p. 6)

Having resolved its objections to the Project, Con Edison takes no further position on the Project.

Respectfully submitted,

s/ Shira R. Rosenblatt

cc: Administrative Law Judges Casutto and Phillips
Active Parties (via e-mail)