

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 17, 2013

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 11-T-0654 - Application of New York State Electric & Gas Corporation for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII to Construct an approximately 4.9 Mile, 8 Inch Diameter Natural Gas Pipeline and Associated above Ground Facilities Located in the Towns of Big Flats and Horseheads and the Village of Horseheads, Chemung County (Seneca West Pipeline).

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED

(Issued and Effective January 22, 2013)

BY THE COMMISSION:

BACKGROUND

On November 30, 2011, New York State Electric & Gas Corporation (NYSEG or Applicant) submitted an application seeking a Certificate of Environmental Compatibility and Public Need (Certificate) to construct an approximately 4.9 mile underground natural gas transmission pipeline and associated above ground facilities in the Towns of Big Flats and Horseheads and the Village of Horseheads, located in Chemung County, NY

(Application).¹ On December 14, 2011, the Secretary to the Commission (Secretary) informed NYSEG that its Application failed to contain certain information required under the PSL, and accordingly its Application was not deemed filed at that time. NYSEG submitted several amendments to its Application to address the outstanding deficiencies identified by the Secretary.² On March 7, 2012, the Secretary advised NYSEG that its Application, as amended, was in compliance with the PSL and was deemed filed as of March 6, 2012.

On March 13, 2012, the Commission issued an Order requiring that a Public Statement Hearing be held to ensure that landowners whose property could be affected by NYSEG's potential exercise of eminent domain powers would have an opportunity to voice their concerns about the need for the proposed line, the proposed route location, and their land interests.³ On April 26, 2012, two Public Statement Hearings (Hearings) were held in Horseheads, NY, in order to receive public comments in person and on the record. Various members of the public provided comments during those Hearings.⁴ Additional comments were submitted directly to the Commission by several state agencies

¹ NYSEG's application was filed pursuant to Public Service Law (PSL) §121-a(3).

² NYSEG filed amendments on December 27, 2011, January 6, 2012, February 7, 2012, February 9, 2012, February 10, 2012, and March 6, 2012.

³ Case 11-T-0654, NYSEG - Article VII Application, Order Requiring Hearing (issued March 13, 2012); Confirming Order (issued March 16, 2012).

⁴ The Hearings were held before Administrative Law Judge Howard A. Jack during the afternoon and evening of Thursdays, April 26, 2012, at the Horseheads High School in the Village of Horseheads. A transcript of the Hearings was posted on our website under this proceeding.

and interested members of the public. These comments are discussed below.

On August 15, 2012, NYSEG responded to the New York Department of Environmental Conservation's (DEC) comments by filing a supplemental Invasive Species Survey Report and proposed Control Plan. On October 23, 2012, NYSEG responded to the New York Department of Public Service Staff's (DPS Staff) comments by filing updated draft construction drawings and revisions to the project's proposed pipeline alignment, temporary construction rights-of-way (ROW) and permanent ROW, as well as modifications to the proposed gas Metering and Regulator station layouts. The updates to the drawings reflected adjustments based on: 1) the field review recommendations provided by DPS Staff; 2) the advancement of the project design; 3) negotiations with affected landowners along the project corridor; 4) comments received at the Hearings; and, 5) comments received in a letter dated December 22, 2011, from the New York Department of Agriculture & Markets (Ag & Mkts).

PROPOSED FACILITIES

NYSEG's proposed gas pipeline, as fully described in Appendix A, would be used to transport natural gas approximately 4.9 miles from Inergy Midstream, L.P.'s (Inergy) existing 16-inch diameter Seneca Lake Gas Storage Facility West Pipeline, located west of Yawger Road in the Town of Big Flats, to NYSEG's two existing 12-inch Elmira distribution pipelines at Gardner Road, located in the Village of Horseheads. NYSEG proposes to construct an eight-inch diameter coated steel gas pipeline between these existing facilities, along with Metering and Regulator Stations at Yawger Road and Gardner Road. At the Gardner Road Metering and Regulator station NYSEG would install approximately 300 feet of 20-inch diameter steel pipeline to

connect to two existing NYSEG 12-inch gas distribution lines. The proposed 20-inch pipeline would be located around the perimeters of the existing Dominion and proposed NYSEG Gardner Road Metering and Regulator stations within or adjacent to existing pipeline ROWs.

Approximately two-thirds of the pipeline would be located in a generally east-west direction, and the remainder in a north-south direction. The majority of the pipeline would follow existing pipeline and electric line ROWs. The area is typically rural in nature and crosses some residential and commercial areas as it approaches the Village of Horseheads. The proposed pipeline would cross gently rolling hills, along with a few steeper hills, and side slopes. It would also cross a variety of land uses including active agricultural fields, abandoned agricultural land, wetlands, woodlands, overgrown fields, and existing mowed ROWs.

The Applicant indicated that the proposed 8-inch pipeline would cross 22 underground utilities. In addition, the proposed pipeline would parallel the Columbia Gas Transmission ROW for approximately 19,300 feet. The initial 5,000 feet of the ROW is an inactive section of the Columbia A-5 pipeline, while the remaining 14,300 feet of the pipeline is currently active. Further, approximately 9,200 feet of the Millennium pipeline is located within the same ROW, as indicated on the Application project maps.

The pipeline would be buried to a minimum depth of 36 inches unless solid rock is encountered in the pipeline trench. If solid rock is encountered, NYSEG proposes to meet the depth conditions established under the Commission's regulations.⁵ The pipeline would be buried to a depth of 48 inches in active

⁵ 16 New York Code, Rules and Regulations (NYCRR) §255.327(a).

agricultural fields and to a minimum depth of 60 inches under all streams, intermittent streams, intermittent drains, diversion ditches, and floodplains.

COMMENTS

1. State Agencies

a. DEC

The DEC provided initial comments on December 28, 2011, and additional comments on February 8, 2012. DEC initially indicated that they identified two protected stream segments along the proposed pipeline route, as depicted on an attached map, located between Chambers Road and Sing Sing Creek. DEC recommended that impacts to these stream segments be avoided by using Horizontal Directional Drilling (HDD) under these streams. To minimize the potential impacts associated with using HDD drilling fluids, DEC recommended five Best Management Practices (BMPs).

Two of the BMPs recommended by DEC are related to erosion and sediment control, and state:

- 1) Erosion and sediment control will be used at the point of drilling, so that sediment laden runoff shall not escape the drill site and enter the stream; and,
- 2) The disturbed areas will be reseeded upon project completion.

The other three BMPs are associated with drilling fluid management, and state:

- 1) Drilling fluid circulation shall be maintained to the extent practical;
- 2) If inadvertent surface returns occur in upland areas, the fluids shall be immediately contained and collected. If the amount is not enough to allow practical collection, the affected area will be diluted with freshwater and allowed to dry and

dissipate naturally. If the amount of surface return exceeds that which can be collected using small pumps, drilling operations shall be suspended until surface volumes can be brought under control; and,

- 3) If inadvertent drilling fluids surface returns occur in an environmentally sensitive area (i.e., wetlands and water bodies) the returns shall be monitored and documented. Drilling operations must be suspended if the surface returns pose a threat to the resource or to public health and safety. Removal of released fluids from environmentally sensitive areas will take place only if the removal does not cause additional adverse impacts to the resource. If inadvertent drilling fluids surface returns occur in an environmentally sensitive area the [DEC] shall be notified immediately and a monitoring report summarizing the location of surface returns, estimated quantity of fluid and summary of cleanup efforts shall be submitted within 48 hours of the occurrence.

If it is determined that utilizing HDD is not feasible for crossing under the streams, due to site constraints or subsurface conditions, DEC recommends that appropriate BMPs should be included to minimize impacts at the stream crossings, including any limitations on construction activity during trout spawning seasons. DEC requests that any such proposed BMPs should be made available to DEC for review and comment prior to the commencement of construction.

DEC also advised that prior to the start of construction, NYSEG will need to comply with the Stormwater State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities (GP-01-10-001). Pursuant to the General Permit, NYSEG is required to prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit a Notice of Intent

to DEC prior to the commencement of work.⁶ In addition, DEC requested that NYSEG include an appropriate Invasive Species Control Plan as part of the Application.⁷

Regarding restoration activities under the Invasive Species Control Plan, DEC Staff provided several recommend BMPs that would require the Applicant to:

- 1) Minimize soil disturbances by reducing work areas and reducing activities that may result in soil disturbances.
- 2) Re-vegetate bare soils as soon as feasible to minimize the possible establishment of invasive plant species. When seeding, non-invasive or local native species must be used (seed mixes will vary from region to region). Seed will be broadcasted over all bare soil areas and covered with a mulch layer such as straw. Choose appropriate seed mixes based on site conditions.
- 3) On steep sloping areas (i.e. slopes exceeding 20 percent), soil erosion control matting (i.e. jute mesh or straw blankets) must be installed over the seeded area. The matting should be secured with biodegradable tacks.
- 4) Stabilize disturbed soils using appropriate erosion and sediment control procedures as soon as possible. Use invasive free materials such as straw or wood chips; avoid using hay.

As part of DEC's additional comments, DEC clarified the location of the protected stream segments, as depicted on an attached map. DEC explained that the stream on the west side of

⁶ NYSEG's Application provided a copy of the SWPPP in Exhibit E. Also in Appendix C of the SWPPP, NYSEG supplied a copy of the Notice of Intent to DEC. DEC did not submit comments on the SWPPP.

⁷ NYSEG's August 15, 2012 supplemental filing included an Invasive Species Control Plan. DEC advised DPS Staff by E-mail dated November 30, 2012 that it did not have any comments on what is included in NYSEG's plan.

the map is a C(t) protected stream, while the C(ts) stream segment located in the center of the map is labeled incorrectly and does not extend as far north as the pipeline route. Therefore, no crossing of a protected stream would occur at this location. However, DEC noted that there are classified trout waters immediately downstream of two unprotected stream segments, so any sedimentation or turbidity impacts on site would likely impact trout unless water flow is very low and/or appropriate erosion BMPs are utilized.

DEC states that there are seasonal construction limitations on in-stream work in these protected streams due to resident populations of wild brown trout. In particular, construction involving disturbance of the stream bed or banks is restricted from October 1st through May 15th of any calendar year where HDD is not used for stream crossings. Finally, DEC confirmed that there are no State-jurisdictional Freshwater Wetlands or Adjacent Areas that are crossed by the proposed pipeline route.

b. Ag & Mkts

By letter dated December 22, 2011, and filed on July 18, 2012, Ag & Mkts provided comments indicating that the proposed pipeline route would cross approximately 1,500 feet of active agricultural land, which is largely composed of forage crops (corn and grass hay). In addition, the proposed ROW would cross approximately 800 feet of fallow (inactive) agricultural land. Ag & Mkts recommended that the topsoil from this section should be stripped and segregated from subsoil during construction activity but should not be de-compacted during restoration. In addition, it recommended that prior to ROW clearing and pipeline construction, the topsoil layer on designated agricultural portions of the proposed route should be "full-width stripped" down to a depth of 12 inches (topsoil

thickness to be determined in the field) and stockpiled along the edge of the right of way, in accordance with the Ag & Mkts Guidelines for Pipeline Right of Way Construction Projects.⁸

Ag & Mkts identified soil types of glacial origin on the inactive agricultural lands owned by Steven A. Reynolds west of Chambers Road. Two of these soil types are Mardin & Volusia, which have a "fragipan" or an impervious subsoil layer with significantly limited drainage capability. Ag & Mkts recommends that full width topsoil stripping should be done in this section down to a maximum depth of 10 inches (2 inches below the first soil color change) in order to assure full capture of all topsoil from the linear expanse of the ROW. Ag & Mkts further suggests that the stripped topsoil should be stockpiled along the uphill side of the ROW, and the pipeline should be buried to a minimum depth of 48 inches in this inactive agricultural land. In addition, due to poor drainage characteristics associated with these fragipan soils, and steepness of the site, Ag & Mkts recommends that NYSEG design and install sandbag trench breakers in the pipeline trench in order to cut off excess water from "piping" (*i.e.*, flowing along) adjacent to the buried pipeline within the backfilled trench.

Regarding the active agricultural fields east of Chambers Road, Ag & Mkts indicates that the soils are comprised of Tioga and Middlebury silt loams, which are relatively flat and drain well. Ag & Mkts requests that full width topsoil stripping should be done in this section down to a depth of 12

⁸ Pipeline Right-of-Way Construction Projects: Agricultural Mitigation Through The Stages of Project Planning, Construction/ Restoration And Follow-Up Monitoring, New York State Department of Agriculture & Markets, Division of Agricultural Protection & Development Services. Albany, New York. Revised 11-97.

inches to ensure full capture of all topsoil, which is identified as ten inches thick. Because most of the active agricultural fields located east of Chambers Road are located in a 100-year Flood Hazard Area, Ag & Mkts suggests a minimum burial depth of five feet.

Ag & Mkts provided comments outlining requested restoration procedures for this area which include: 1) initial decompaction (minimum 18 inches with subsoiler; 2) rock picking greater than four inches in diameter prior to topsoil replacement; 3) final deep shattering as necessary; 4) seed and soil amendments (lime and fertilizer; and, 5) monitoring procedures.

On July 25, 2012, DPS Staff consulted with Ag & Mkts officials and discussed the possible dates for construction and restoration. Restoration of the ROW was not recommended until soil conditions are sufficiently dry, as determined by an Environmental Inspector, in consultation with Ag & Mkts and DPS Field Staff. Until such time, Ag & Mkts recommended that all disturbed agricultural areas should be temporarily stabilized according to measures included in the Ag & Mkts' *Seeding, Fertilizing and Lime Recommendations for Gas Pipeline Rights-of-Way Restoration in Farmland*.

2. Public Statement Hearings

a. Geoff Rubin

As a potentially affected landowner, Mr. Rubin indicated that NYSEG has been nonresponsive to his inquiries. In particular, he noted that he raised questions with NYSEG about the liability of NYSEG's contractors and subcontractors, but has not received a response. During the Hearing, Mr. Rubin also raised questions regarding: 1) whether ingress and egress would be authorized without notification; 2) the amount of land and trees that would be taken; 3) the level of compensation for

those takings; 4) what chemicals would be used for tree and shrub removal; 5) how runoff would be handled; and, 6) who he should direct any complaints to. Further, he raised concerns about stacking the tree logs on the steeper slopes on his property and requested that NYSEG be required as part of the easement agreement to remove the logs.

Mr. Rubin maintained that the easement proposed by NYSEG was egregious and would not fairly compensate him for NYSEG taking his property interest. Mr. Rubin suggested that the New York State Attorney General's Office should investigate what he characterized as problems related to NYSEG's good faith dealings with landowners. Mr. Rubin also objected to being liable for NYSEG's actions on the proposed ROW, as well as incurring increased insurance premiums.

b. Dorianne Riggs

Mrs. Riggs raised several concerns related to the proposed pipeline crossing over her property, including: 1) maintaining ingress and egress over her driveway in case of an emergency; 2) increased water runoff; 3) potential contamination of well water from herbicides; 4) identification of who maintains the ROW and has access to gates on the ROW; 5) restoration and removal of the pipeline if abandoned; and, 6) waiver of local laws regarding timber harvesting. Mrs. Riggs also requested an alternate route on her property to move the pipeline farther away from her residence and to avoid a hill on her property. In addition, she requests that any tree replacements be in kind. She is similarly concerned with the terms of an easement with NYSEG, including its duration, and requests that the easement specify the pipeline will be 8 inches in diameter. Further, Mrs. Riggs seeks bonds to cover any liability, proof of adequate insurance, and indemnification in the event of a claim arising from a trespasser.

c. Richard Gawenus

Mr. Gawenus raised concerns related to erosion on the proposed ROW. He indicated that 600 feet of his property borders the southern edge of the ROW that already contains an electric transmission line. According to him, having the pipeline and electric line adjacent to each other, along with routine vegetation maintenance, would lend itself to erosion problems. He indicated that there are ditches up to three feet deep in the electric line ROW caused by erosion due to heavy rains that cause water to go close to his residence.

d. Christopher Denton

Mr. Denton indicated that he was an attorney representing a client with property along the proposed ROW.⁹ Mr. Denton conveyed his prior experience concerning the eminent domain process and various legal issues that arise in the context of negotiating an easement with the utility. He noted issues involving the level of compensation, landowner liability, and the rights and responsibilities of the utility and the property owner. He provided examples of agreements between western Native American tribes and the Bureau of Land Management, which do not grant permanent easements for pipelines, and instead grant a 10 year lease, with conditions for renewal, and provide for rent payments. He also cited a gas gathering pipeline case in Broome County that was before the Commission (Case 10-T-0350) where the pipeline company ended up with two 20-year easements with a yearly rental fee.

Mr. Denton contends that the Commission has failed to address the rights and obligations of the utility and property owners. He recommends that this proceeding should not be

⁹ Mr. Denton submitted written public comments on behalf of the Lewis Family, as discussed below.

allowed to go forward until there are regulations or standards set forth. He encourages the Commission to establish standards for the Applicant's proposed pipeline after notice and comment, and then use them in the future to make generalized regulations. He also encourages the Commission to prohibit non-disclosure of easement fees, and ensure the transparency of easements. Mr. Denton further suggests that any easements should not provide NYSEG with broader rights than what it needs to construct the proposed pipeline.

e. Lee Giammichele

Mr. Giammichele stated his concern with gas pipeline safety due to NYSEG's safety record and the proximity of his property to the Millennium pipeline. He also raised concerns with the easement process and his ability to receive adequate compensation, which he contends should be based on square footage, not linear feet. In addition, Mr. Giammichele indicated his interest in receiving retail gas service off of the pipeline at Upson Road.

f. Laurie Grella

Mrs. Grella explained that the safety of her family is her first and foremost concern with the proposed pipeline. She questioned the safety of installing the proposed pipeline parallel to and crossing the existing Columbia Gas A-5 12-inch gas pipeline. While Mrs. Grella requested that the Commission deny NYSEG's Application, she suggested moving the pipeline farther away from her residence. She also sought assurance that she would be paid an appropriate value for her land, and that her property would be restored to its existing condition.

3. Written Public Comments

a. Renato J. Rojas

In comments filed on December 2, 2011, Ronato Rojas questioned the need for the pipeline and inquired about

reasonable alternatives to the pipeline route, including an existing electric easement on his property. Mr. Rojas also opposed the pipeline due to concerns about the decimation of trees that protect wildlife.

b. Lewis Family

On December 14, 2011, Christopher Denton filed comments on behalf of the Clara L. Lewis Family Trust, Fred Lewis Farm and Mineral Rights Revenue Trust, and Lawrence Lewis (collectively, Lewis Family). The Lewis Family raised many of the same comments that were provided by Mr. Denton during the Hearings. The Lewis Family questioned the need, economic justification, and duration of cost recovery for the proposed pipeline. They also cited concerns with the use of pesticides, risk of fires due to un-cleared debris on the ROW, and the lack of an assessment of cumulative environmental impacts. In addition, the Lewis Family inquired about removal of the pipeline upon abandonment or the end of its useful life, and the restoration of affected areas. The Lewis Family further identified a list of easement provisions and other conditions that should be required to address their concerns.

c. Rocco and Laurie Grella

On December 15, 2011, Rocco and Laurie Grella filed written comments raising the same concerns and objections that Mrs. Grella identified during the Hearings. These items are summarized above.

d. Lee Giammichele

On December 19, 2011, Lee Giammichele filed written comments raising the same concerns and objections that he identified during the Hearings. These items are summarized above.

e. Marcelle Lawas

On December 21, 2011, Marcelle Lawas filed comments raising certain concerns and objections. Mr. Lawas indicated that he owns a business on Gardner Road and that a portion of his property would be taken for the pipeline. His concerns with the pipeline include: 1) the safety of the pipeline in close proximity to residential neighborhoods and a grade school; 2) the loss of green space and wildlife habitat; 3) the potential decrease in property values; and, 4) the maintenance of NYSEG's existing gas facilities adjacent to his property. Mr. Lawas maintained that those existing facilities are insecure because the fencing surrounding the facility does not reach the ground. He also raised objections to the visual impacts due to a rusted chain link fence and a lack of vegetative screening.

f. Chuck Wilke

In comments filed on April 26, 2012, Chuck Wilke indicated that he owns property along the proposed pipeline route and that NYSEG plans to take more of his property for temporary construction and the building of an access road. Mr. Wilke requested that any trees removed by NYSEG be replaced on the temporary easement area. He maintains that the pipeline will decrease the value of his property. In addition, Mr. Wilke questioned the need for the line, and whether any savings realized from the project will actually reduce customer costs. Mr. Wilke opposed the pipeline for these reasons.

g. John and Dorianne Riggs, Jr.

On May 1, 2012, John and Dorianne Riggs, Jr. filed written comments raising many of the same concerns and objections that were identified by Mrs. Riggs during the Hearings and are summarized above. Mrs. Riggs' written comments

also contain a compilation of unanswered questions and requested provisions for an acceptable easement.

h. Paul Hicks

On May 7, 2012, Paul Hicks indicated his objection to the construction of the proposed pipeline and inquired as to the availability of reasonable alternative routes. Mr. Hicks requested DPS Staff conduct site visits to review the proposed pipeline alignment.

i. Jeff Farmer

In comments dated May 8, 2012, and filed on May 11, 2012, Jeff Farmer raised two concerns. Mr. Farmer maintained that the temporary easement he signed will have a permanent negative value on his property and sought the Commission's input regarding the true value of the easement. Mr. Farmer also sought an alternative route for the pipeline along an existing power line ROW to avoid cutting approximately 50 feet of wooded property and impacts views from his property.

j. Barbara McDowell

On September 22, 2012, Barbara McDowell requested information regarding the location of the compressor station for NYSEG's project.

k. Carol Ransom

On December 3, 2012, Carol Ransom raised objections to the proposed pipeline due to the adverse environmental impacts of the natural gas industry in general, as compared to coal or oil. Ms. Ransom claims that certain studies conducted by a Cornell University professor demonstrate that the natural gas industry is "more polluting through leakage." She also asserts that NYSEG is impermissibly trying to segment environmental review of the proposed pipeline by excluding compressor stations and other industry efforts to develop natural gas.

DISCUSSION

The Commission acknowledges and appreciates the active participation of the public regarding the Application. The various comments provided during the Hearings and in writing have provided a better understanding of the communities' concerns, contributed to the development of a complete and accurate record, and assisted our decision-making process.

Public comments broadly related to the need for the pipeline, the location of the pipeline and potential alternative routes, tree cutting, removal and replacement, construction and maintenance practices, pipeline safety, eminent domain and contents of easements, and pipeline decommissioning and restoration. Each of these topics is discussed below, as well as other matters related to the Application.

1. Statutory Findings

The required statutory findings and determinations for issuance of a Certificate to construct a natural gas transmission facility proposed under PSL §121-a(3) include: a) the basis of the need for the facility; b) the nature of the probable environmental impact; c) that the location of the gas transmission line will not pose an undue hazard to persons or property along the area traversed by the line; d) the location of the facility, as proposed, conforms to applicable state and local laws and regulations; and, e) the facility will serve the public interest, convenience, and necessity.¹⁰ These findings and determinations are discussed below.

a. Need

The proposed 4.9 mile pipeline will increase reliability to the Elmira system by directly connecting to Inergy's Seneca Lake Gas Storage Facility and using this new

¹⁰ PSL §§121-a(7) and 126.

pipeline to deliver gas to NYSEG's citygate. In addition, the facility will allow NYSEG and its retail access marketers to reduce reliance on Dominion Transmission Inc.'s (DTI) pipeline capacity, which it currently uses to deliver gas to its Elmira system, by up to 20,000 Dth/day.

NYSEG stated in its initial filing that its customers would realize a savings of approximately \$1,382,000 per year by reducing the capacity it needs from DTI. However, this project would increase the available city gate capacity on NYSEG's distribution system and could be used for the expansion of gas usage, as is currently being investigated under Case 12-G-0297.¹¹ As a result, the quantity of divested or permanently released DTI capacity, and the associated costs savings, cannot currently be specifically quantified, but it should be noted that gas expansion would increase system through-put and the number of NYSEG's delivery customers, which would further optimize the distribution system and spread fixed costs over more customers. DPS Staff will continue to review the quantity and usage of NYSEG's capacity assets, as it does for all major natural gas utilities, on an annual basis. NYSEG estimates in its filing that, upon completion of the project, it will avoid \$350,000 in variable fuel and commodity costs per year by supplying the Elmira distribution system using the proposed pipeline instead of DTI.

The proposed project also has the potential to increase NYSEG's use of locally produced natural gas by connecting to Inergy's storage facility, which is located in a region containing several natural gas formations, including

¹¹ Case 12-G-0297, Proceeding on Motion of the Commission To Examine Policies Regarding the Expansion of Natural Gas Service, Order Instituting Proceeding and Establishing Further Procedures (issued November 30, 2012).

Trenton-Black River and Marcellus Shale. Finally, the project was reviewed by DPS Staff as a means of ensuring the reliability of local production supplies and the Commission approved the project for the purposes of capital expenditures in NYSEG's most recent rate case.¹² Accordingly, we find and determine that construction of the proposed pipeline is needed to enhance reliability on NYSEG's Elmira distribution system, allow for the expanded usage of gas, reduce overall reliance on interstate pipeline capacity, reduce the overall cost of gas supply for NYSEG's ratepayers, and increase the utilization of locally produced natural gas.

b. Probable Environmental Impacts

The nature of the probable environmental impacts, as identified in the Application, is primarily temporary in nature due to construction activities. Many of these impacts can be mitigated by applying the Revised Interim Environmental Management and Construction Standards and Practices (EM&CS&P) document, which the Commission has previously approved and the Applicant indicated it has adopted.¹³

1) Land Uses

The proposed pipeline will traverse a mixture of land uses, which are characterized as existing mowed utility ROWs (18,035 feet) abandoned fields (3,200 feet), active agriculture land (1,500 feet), woodlands (1,100 feet), wetlands (900 feet),

¹² Cases 09-E-0715, et al., NYSEG and Rochester Gas & Electric for Gas Service - Rates, Charges, Rules and Regulations, Order Establishing Rate Plan (issued September 21, 2010).

¹³ Case 06-T-1383, Fortuna Energy Inc., and Case 70100 Environmental Management and Construction Standards and Practices, Order Granting Certificate of Environmental Compatibility and Public Need and Improving Environmental Management and Construction Standards and Practices (issued December 7, 2006).

and inactive agricultural fields (800 feet). The proposed pipeline will cross two perennial streams, 11 intermittent streams, 7 drainages, and 22 wetlands. NYSEG indicates that no designated visual resources, including scenic areas, roads, vistas, and overlooks, parks or recreational areas will be affected by this project.

The Application indicates that some vulnerable ecosystem resources are present, including wetlands, floodplains, and streams. NYSEG states that the proposed pipeline will travel through a 100-year flood plain located between Chambers Road and Sing Sing Creek. The Applicant intends to take extra precautions in this area. Although there will be some minor temporary disturbances due to full-width topsoil stripping and stockpiling and grading, this area will be re-graded and restored post-construction to ensure there will be no permanent impacts within the 100-year floodplain as a result of pipeline construction. The Applicant indicates that it will follow construction and restoration techniques outlined in the EM&CS&P, the Storm Water Pollution Prevention Plan, and any Certificate conditions concerning vulnerable ecosystem resources present on the project.

The Applicant indicated that areas of agricultural land uses will be crossed by the proposed pipeline. NYSEG indicated that they have contacted Chemung County officials and web sites with regard to the agricultural districts within the project area, and reported that the proposed pipeline will not cross any Chemung County Agricultural Districts. The Applicant has committed to implementing measures described in the EM&CS&P document and the Ag & Mkts' standards to mitigate pipeline construction activities in the active agricultural fields.

Ag & Mkts suggested further measures to ensure the protection of agricultural land uses, including: 1) full-width

topsoil stripping (thickness to be determined in the field); 2) a minimum burial depth of 48 inches; 3) a burial depth of 60 inches in the 100-year flood plain to the east of Chambers Road; 4) installation of sand bag trench breakers; 5) decompaction to a minimum depth of 18 inches; 6) surface rock picking greater than four-inches in diameter; 7) soil compaction testing and seed and soil amendments; and, 8) the delay of final restoration in the active agricultural parcels until spring or summer when soil conditions are dry. These recommendations are reasonable to mitigate impacts on agricultural resources, and this order is conditioned upon these terms.

The Applicant states that the proposed project will also cross a multifamily housing development plan on two vacant lots north of Gardner Road and west of an existing electric line ROW (See Figure 3 - Belosky Housing Development). By field observations and review of the aerial project maps, DPS Staff determined that the nearest occupied structure to the pipeline is approximately 30 feet away from the proposed pipeline centerline. Two residences and two apartment buildings range from 50 to 100 feet away from the proposed pipeline centerline, while 15 other residences range from approximately 100 feet to 150 feet away. Two other residences range approximately 150 to 200 feet away, and another three residences range between 200 to 300 feet from the proposed pipeline centerline. In addition, the proposed pipeline will cross near and through commercial property on the south side of Gardner Road.

The Application did not identify the existence of vulnerable ecosystem features or resources, such as highly erodible soils, DEC Freshwater Wetlands, wells, unique old growth forest, active sugar bushes or productive timber stands. Further, no trees from the State Registry of Big Trees were identified along the proposed route. No existing industrial,

institutional, or recreational land uses will be crossed by the proposed pipeline.

2) Wetlands

NYSEG indicated that that the project will cross 22 wetlands as shown on the project maps, based on: 1) a review of the U.S. Fish & Wildlife Service's National Wetlands Inventory; 2) the New York State Freshwater Wetlands Maps; 3) preliminary screening with the DEC; 4) several field reviews; and, 5) a review by the Applicant's wetland consultant. The Applicant will delineate wetland and wet area boundaries that the project will cross or be in close proximity to, under the guidance and direction of a qualified wetland specialist prior to the start of construction.

The Applicant indicated that impacts to wetlands will be minimized or avoided, and stated that:

- a) The pipe will be rock-wrapped or concrete coated to minimize gravel and sand bedding that would allow water to drain out of the wetland;
- b) Wetland topsoil over the pipe trench will be stripped and segregated to prevent mixing of topsoil layers during trench backfill operations;
- c) Open trench installation will be backfilled with native material, so local soil permeability will not significantly change;
- d) Use of wooden or plastic mats for the working side of the ROW will minimize ground disturbance; and,
- e) Upon completion of final grading of disturbed areas a seed mix will be applied and the area will be mulched with straw or a similar material.

The Applicant indicates the proposed pipeline requires a Nationwide Permit 12, authorized by the US Army Corps of

Engineers (ACOE) under Section 404 of the Federal Clean Water Act (CWA), to allow the placement of NYSEG's proposed pipeline in the waters subject to the ACOE's jurisdiction. NYSEG requests a CWA Section 401 Water Quality Certification from the Commission before the ACOE may issue the permit. The requested Water Quality Certification is addressed below.

3) Water Usage

For the hydrostatic test of the pipeline, NYSEG intends to obtain potable water from the Village of Horseheads' water system. Approximately 70,000 gallons of water will be pumped from an area hydrant into the proposed pipe for testing. The proposed pipe will be filled and tested in one segment for the 12-hour duration after pressure stabilization.

4) Wildlife

The Applicant included an Endangered Species Field Report Summary and correspondence with the DEC and the US Fish and Wildlife Service, which is contained in Exhibit H of the Application. NYSEG reports that no threatened or endangered species were identified during field surveys.

In a letter dated June 1, 2011, DEC provided the Applicant a report of rare or state-listed animals and plants, from the DEC Division of Fish, Wildlife and Marine Resources. The letter also included a report of significant natural communities, or other significant habitats which their database indicated are present, or may be present, on or in the immediate vicinity of the proposed project site. This letter included correspondence from the National Heritage Program indicating that there are three threatened bird species (Upland Sandpiper, Least Bittern and Pied-billed Grebe) and one endangered vascular plant (Reflexed Sedge) that may occur in the area.

NYSEG sent a letter dated August 3, 2011, to the US Department of the Interior Fish and Wildlife Service and to the

DEC Region 8. This letter contained a summary of field site visits with respect to vegetative community impacts and species habitat requirements and potential impacts. This letter concluded that the listed species mentioned above were evaluated, and should not be adversely impacted by a lack of suitable habitat.

5) Cultural Resources

A Phase 1a and 1b Cultural Resources Survey of the entire 4.9 mile project route, including the Metering and Regulator stations, was completed and no cultural resources or archeologically sensitive areas were identified for this project. The Applicant received a letter of "No Impact" dated November 16, 2011, from the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) that was included as Exhibit "I" of the Application. The letter explained that OPRHP reviewed information submitted for this project in accordance with Section 14.09 of the New York Parks, Recreation and Historic Preservation Law and relevant implementing regulations, and that based upon its review the project will have "No Impact" upon cultural resources on, or eligible for inclusion on, the State and National Registers of Historic Places.

6) ROW and Alternative Routes

The Company indicates that they have generally acquired a typical ROW width of 40 feet, of which 30 feet will be permanent easement and the remaining 10 feet will be temporary easement for the construction, unless otherwise noted on the project drawings. Additional temporary ROW may be required for construction activities dealing with road crossings, croplands, selected wetlands, and areas of side slopes. In addition, temporary extra work space is designated

on the project maps in areas along the pipeline route as required to accommodate log storage, staging, and spoil storage.

Incremental clearing up to 25 feet in width adjacent to the Columbia Gas Pipeline and Millennium Gas Transmission Pipeline will be required in wooded areas.¹⁴ Also, the proposed pipeline will require three short segments of entirely new ROW. The first segment is located just east of the tap point and is approximately 800 feet in length. The second segment is located on either side of Hickory Grove Road and is approximately 600 feet in length. The third segment is located east of the Gardner Road Metering and Regulator station site and is approximately 300 feet in length. A clearing width of 40 to 50 feet will be required along portions of these new segments of ROW. Where the proposed pipeline parallels NYSEG's existing 34.5 kV electric ROW, most construction activity will take place within the existing ROW and will require a minimal amount of clearing. Additional clearing may be required in areas where extra work space is required for construction as shown on the project maps in Exhibit A of the Application.

In all areas that are bored, a 20-foot minimum "line of sight" clearing will be completed directly over the pipeline after installation is complete to facilitate line patrols and inspections required under 16 New York Codes, Rules and Regulations (NYCRR) Part 255, and to facilitate repairs that may be required in the future. The "line of sight" clearing will be accomplished by utilizing hand-clearing techniques for removing timber and brush to ground level, while exercising care not to cause undue disturbance in environmentally sensitive areas.

¹⁴ In the Application, NYSEG discussed clearing of some wooded areas along the Columbia ROW. In discussions with DPS Staff, NYSEG indicated that possible clearings of wooded areas may also be required along the Millennium Pipeline ROW.

The Applicant indicated that all public roads will be crossed using an open-cut method, as required by permit specifications. A copy of all road work consents or permits shall be provided to the Secretary prior to the commencement of pipeline construction. NYSEG indicated that it may use a directional bore or straight bore installation method if it becomes necessary. Prior to the commencement of pipeline construction, NYSEG will provide traffic control plans for all public roads that will be crossed by the pipeline. The Applicant will also be required to adhere to the standards relating to transportation and utility crossings in the EM&CS&P document, which was revised by DPS Staff February 28, 2006, and was subsequently adopted by the Commission.¹⁵ The pipeline will cross two county roads (County Routes 35 and 57); six town roads (Yawger, Upson, Barnes Hill, Prospect Hill, Oak Hill and Woodgate Drive); one village road (Gardner Road); and two private drives.¹⁶

The Applicant explains that in a response to its invitation, home owners along Biltmore Drive met with NYSEG representatives in September of 2011 to discuss the proposed location of the gas pipeline 20 feet from the back of their property lines. NYSEG provided a map of the proposed pipeline location and described the proposed installation method of the pipeline for directional boring, and the required line of sight

¹⁵ Case 06-T-1383, Fortuna Energy Inc., and Case 70100 Environmental Management and Construction Standards and Practices, Order Granting Certificate of Environmental Compatibility and Public Need and Improving Environmental Management and Construction Standards and Practices (issued December 7, 2006).

¹⁶ While the initial route proposed by NYSEG crossed four private drives, the re-routing along Mrs. Riggs' property discussed herein eliminates two of those crossings.

over the pipeline. Also, NYSEG answered questions asked by the landowners about the proposed pipeline and operation, and increased general awareness of the homeowners to the proposed pipeline location.

Mrs. Riggs highlighted concerns about the jurisdiction of pipeline ROW maintenance when two gas pipelines ROWs join or overlap each other. In response to DPS Staff's information request, NYSEG explained that portions of the permanent ROW for NYSEG's proposed pipeline would overlap permanent ROWs of pipelines owned by others where NYSEG's pipeline will parallel or cross those pipelines. NYSEG will maintain its ROW to accommodate pipeline operations and maintenance. NYSEG stated that it is possible that the portion of NYSEG's permanent ROW that overlaps that of pipelines NYSEG will cross or parallel may be periodically maintained by neighboring pipelines in addition to NYSEG's maintenance.

Regarding concerns raised by Mr. Rojas, DPS Staff consulted with NYSEG in reviewing the project construction drawings and determined that the proposed pipeline, although close, is not on the Rojas property. The ROW width for the proposed pipeline has been narrowed to less than 30 feet to avoid this property.

During the Hearings, Mrs. Riggs stated that she requested an alternate route that would move the proposed pipeline farther away from her residence and driveways, while still remaining on her property. She indicated that NYSEG proposed an alternate route but later rescinded its proposal due to an increase in environmental impacts and additional bends in the pipeline. Upon hearing Mrs. Riggs' statements during the Hearings, DPS Staff requested that NYSEG perform a comparative analysis between the proposed original route and the alternate route proposed by Mrs. Riggs. DPS Staff and NYSEG had several

meetings with Mr. and Mrs. Riggs concerning the pipeline location and issues related to tree avoidance, location of extra work space, timber and firewood salvage, and erosion control on the alternate ROW. In addition, NYSEG had meetings with the Town of Horseheads Road Superintendent concerning construction across Barnes Hill Road. NYSEG also had a field meeting with a pipeline construction contractor and DPS Staff to review the constructability of the proposed alternate pipeline route. As a result of these meetings and discussions, NYSEG supplemented its application on October 23, 2012, to reflect a proposed alternate alignment on the Riggs Property (East side of Barnes Hill Road) and the Francischelli Property (West side of Barnes Hill Road) in an attempt to address the Riggs' concerns regarding avoiding their driveways, locating the line farther from their residence, and minimizing the clearing of larger trees on their property. Although the alternate does represent an increase in environmental impacts, DPS Staff considers them minimal in nature.

As noted above, Mr. Farmer was concerned about the placements of the easement on his neighbor's property and that it would open a view to Hickory Grove Road from his residence. He suggested that the proposed pipeline be moved to the east to cross Hickory Grove Road where the NYSEG Electric Transmission lines cross. DPS Staff reviewed these concerns and reports that there is approximately 350 feet of wooded area behind his residence which should provide an ample vegetative screen for the pipeline ROW from Hickory Grove Road. In addition, DPS Staff investigated the possibility of moving the proposed alignment to the east to follow NYSEG's existing electric transmission ROW, but determined that various underground and overhead utilities and two residences would present construction

difficulties. We therefore determine that the alternative route suggested by Mr. Farmer should not be approved.

7) Environmental Management and Construction

In accordance with PSL §121-a(1), the Applicant has certified that, in constructing a fuel gas transmission lines less than ten miles long, it will follow the standards and practices set forth in the EM&CS&P document dated February 28, 2006, which was subsequently approved by the Commission.¹⁷ The Applicant has identified general and site-specific construction and environmental management measures and techniques on the EM&CS&Ps check-off list, described in Exhibit C of the Application, which will be employed in connection with this project.¹⁸ The measures and techniques contained in the EM&CS&Ps document, when properly applied, will help ensure that environmental impacts are minimized during construction, operation, and maintenance of the facility. The Applicant indicated that it would begin construction of this pipeline shortly after a Certificate is granted.

DEC provided significant input concerning the location of segments of state protected streams, suggested BMP's for erosion and sediment control, drilling fluid management, seasonal construction limits in protected streams from October 1st to May 15th, the preparation of the SWPPP, and the preparation of an Invasive Species Control Plan and suggested BMPs concerning the Invasive Species Control Plan. These requests

¹⁷ Case 06-T-1383, Fortuna Energy Inc., Order Granting Certificate of Environmental Compatibility and Public Need and Approving Environmental Management and Construction Standards and Practices (issued December 7, 2006).

¹⁸ Although the Applicant did not indicate that blasting would be needed, if it is required, Applicant will be required to utilize the blasting conditions in the EM&CS&P document.

and BMPs are reasonable and will be followed to address the natural resource concerns identified by the DEC. Although the DEC BMPs will not be incorporated into the EM&CS&Ps, the BMPs will still be required for this particular project.

To ensure compliance, the Applicant shall retain an environmental monitor with authority to stop work that is jeopardizing resource protection. The monitor shall be on-site during all phases of construction to ensure compliance with the terms and conditions of this order and any subsequently issued order. Additionally, DPS Environmental Field Staff will regularly be present at the construction site to ensure that the terms of the Certificate are complied with.

a) Herbicide Usage

Several members of the public raised concerns with the potential use of herbicides and pesticides on the ROW. The Applicant indicated that herbicides and pesticides will not be needed during construction of this project. Once placed into operation, the pipeline ROW and meter and regulation sites will be maintained by mechanical mowing techniques. The Applicant also states that hand clearing methods may be utilized to obviate the need to use chemicals on the ROW and station sites. In the unlikely event that herbicides and pesticides are necessary, NYSEG indicates that they would be applied under the direct supervision of a New York State Certified Applicator. All subject property owners would be notified prior to their application in accordance with DEC notification guidelines.

b) Erosion Control

The Riggs' raised concerns about erosion control and maintenance of the pipeline ROW. NYSEG is required to follow all conditions of the approved EM&CS&Ps described above. In addition, NYSEG is required to prepare a SWPPP, as noted above under DEC's comments. These two documents list erosion control

devices and techniques that will be applied during construction and restoration of the proposed pipeline project.

As mentioned above, the EM&CS&P and the SWPPP are documents that will be used by NYSEG and its contractors to control sedimentation and erosion during construction and restoration on pipeline ROWs. Since the Hearings, NYSEG indicated in its supplemental filing dated October 23, 2012, that on the Gawenus property it will "[r]epair rutting in NYSEG Electric ROW as directed by NYSEG Field Representative." DPS Staff has conveyed to the Applicant that NYSEG can proceed currently to repair any rutting or erosion problem on NYSEG's electric line ROW.

c) Tree Clearing and Replacement

Mrs. Riggs inquired at the Hearings if NYSEG was going to re-plant trees on the temporary ROW after pipeline construction. In response to a DPS Staff information request, NYSEG indicated that they do not propose to replace any trees in the temporary ROW during restoration. Typically, pipeline companies reseed the temporary ROW with an upland or wetland grass mix, as applicable, and let any tree species seed in naturally. We will require, however, that the Applicant minimize tree removal to the extent necessary for construction. Further, to the extent the trees removed are ornamental, the Applicant will be required to replace them.¹⁹ We find that this is a reasonable approach under the circumstances.

Mr. Wilke's property is located east of Hickory Grove Road, and would include 20 feet of temporary ROW. He similarly requested that trees be planted in the temporary ROW following construction. DPS Staff discussed with NYSEG the possibility of

¹⁹ Ornamental trees include trees that have been planted as part of a garden or landscape setting.

reducing the width of the temporary ROW during construction. NYSEG indicated that this may be an option but would like to have their pipeline construction contractor review this area to determine if they can reduce any clearing widths. In addition, if a reduced clearing width can be realized in this area, it would lessen the view of his neighbor, Jeff Farmer, to Hickory Grove Road.

Efforts will be made by the Applicant to minimize clearing in forested areas. NYSEG will leave all firewood and timber neatly stacked, in tree length, along the edge of the ROW for landowners, if their landowner agreements permit them to do so. Brush will be chipped and piled along the edge or buried within the ROW. Chips may also be stored off the ROW if the Applicant has permission from landowners to do so. No logs, brush, chips or stumps will be stored in any wetlands or floodplains.

d) Visual Impacts

The Commission realizes the concerns of Mr. Lawas. The proposed NYSEG Gardner Road Metering and Regulator station is located in a partially wooded area that should partially screen NYSEG's Metering and Regulator station from Mr. Lawas' commercial office. In addition, the proposed pipeline follows along the eastern edge of the existing Dominion Transmission facility and this location may allow NYSEG to install additional vegetative screening in accordance with ordering clause 1(aaa) below. For the new buildings at both Metering and Regulator stations, the outside finish of the buildings (sides and roofs) shall be earth tones in color, as required in ordering clause 1(pp) below.

8) Compressor Stations

The Application does not call for the construction of a compressor station. Therefore, there is no need to address the public comments related to compressor stations.

9) Decommissioning

Several public comments indicated interest regarding removal of the pipeline once gas no longer flowed through it. Decommissioning, or the removal of a facility, is not standard practice for gas pipelines. Decommissioning pipelines in place is generally beneficial in that no additional environmental damages are undertaken for removal. No information has been presented regarding the cost or environmental impacts of removing the pipeline and restoring the ROW once the pipeline is no longer needed. Based on the record before us, we will not require the pipeline to be removed. We note, however, that our regulations contained in 16 NYCRR §255.727 specify requirements the Applicant would need to meet if the pipeline was abandoned or inactivated.

c. No Undue Hazard - Gas Safety

The proposed pipeline's maximum allowable operating pressure from the tap of Inergy's 16-inch Seneca Lake Storage West Pipeline to the Yawger Road Metering and Regulator station will be 1,341 psig. The maximum allowable operating pressure of the proposed pipeline from the Yawger Road Metering and Regulator station to the Gardner Road Metering and Regulator station will be 1,100 psig. In conjunction with this project, approximately 300 feet of proposed 20-inch steel distribution line will be installed from the Gardner Road Metering and Regulator station to NYSEG's two existing 12-inch steel distribution lines and will operate at 55 psig.

At the Yawger Road Metering and Regulator station, NYSEG will install a 9 foot by 25 foot precast concrete building

that will house the odorization and remote telemetering equipment, which will be owned by NYSEG. In addition, an 8 foot by 18 foot prefabricated building will be constructed to house the metering equipment. NYSEG indicates that it is considering building an additional regulator building (Alternate 1), as indicated on the project maps, Drawing No.6172- 5201 (Sheet 1 of 10). They indicate that this building would be required if Inergy decides to change its maximum allowable operating pressure from 1,100 to 1,341 psig. At the Gardner Road Metering and Regulator station, NYSEG will install a prefabricated 8 foot by 18 foot metering building and a prefabricated 13 foot by 23 foot pressure control building, which will be owned by NYSEG.²⁰

The pipeline will be required to be designed, constructed, tested, operated, and maintained in accordance with the provisions of 16 NYCRR Part 255. Class designations are established by measuring population density near the pipeline route. The Applicant indicated that for the proposed route, they will build the pipeline in accordance with Class 3 location standards which will require that the pipeline be operated at less than 50% of its specified minimum yield strength and that 100% of the welds be x-rayed. In NYSEG's supplement to the Application, filed October 23, 2012, they indicated the drawings reflect an increase in the pipe wall thickness from .219 to .322 inches. The Applicant explained that while the pipe wall thickness was made to accommodate pipe availability, the 47% increase in wall thickness increases the integrity and operational safety of the proposed installation. The Applicant indicated that this change in wall thickness is also reflected

²⁰ We anticipate that some noise may be produced at the Gardner Road Metering and Regulator station due to the large change in operating pressure between pipelines, but expect any such noise impacts to be mitigated by the building structure.

at the outlet pipe at Yawger road and the inlet pipe to the Gardner Road Metering and Regulator station.

Our gas safety regulations describe requirements of gas pipeline operators to develop written procedures to minimize any hazard resulting from a gas pipeline emergency.²¹ The regulations describe the information to be detailed in the procedures, including the availability of personnel, equipment, tools and materials needed in the case of an emergency. The regulations also require training of operating personnel and for operators to establish and maintain liaison with appropriate fire, police, and other public officials. These gas safety regulations also include provisions for a customer education and information program.²² While there is no requirement that pipeline operators post such procedures on the internet, there is a requirement for operators to develop and implement a written continuing public education program. One of the requirements of the regulation is for operators to educate the public on possible hazards associated with unintended releases from a gas pipeline facility, steps that should be taken for public safety in the event of a gas pipeline release, and procedures for reporting such an event. The Applicant may consider posting their public education program on a publically accessible website upon its development.

In addition, the facility will be hydrostatically tested as required by 16 NYCRR Part 255 to ensure the integrity of the pipeline. The pipeline will also be included in the DPS Staff regular inspection schedule that requires regular auditing of all operation and maintenance.

²¹ 16 NYCRR §255.615

²² 16 NYCRR §255.616

Regarding Mrs. Grella's safety concerns, the project drawings indicate that "there will be no trench left open overnight" on her property. Also, Mrs. Grella was concerned about installation of the proposed project under an older pipeline. DPS Staff advises that the Columbia Gas A-5 12-inch pipeline was replaced in this area within the Grella property in 1993, and the age of this pipeline should not pose a safety hazard.

In addition, Mrs. Grella requested that the proposed project be moved to the south side of the existing pipeline. DPS Staff requested that NYSEG do a comparative analysis of the NYSEG route versus the route proposed by Mrs. Grella. Some of the factors that would influence keeping the pipeline on the north side of the existing pipeline ROW would be less impact to Wetland K, and less clearing impacts. The reroute could also move the proposed gas pipeline into the Columbia Gas Pipeline ROW and would eventually have to be moved to the north side of the existing pipeline ROW before it reaches Prospect Hill Road. The proposed alternate route would involve one and possibly two additional landowners.

There is an insufficient basis to adopt the alternate route proposed by Mrs. Grella, which would merely shift the impacts from one landowner to another. The Commission maintains that there are adequate safety regulations and certificate conditions to safely construct and maintain the proposed pipeline. In addition, the Commission will require NYSEG to install and maintain orange safety fence on both edges of the ROW on Mrs. Grella's Property (see ordering clause 1(p) below). This safety fence would act as a temporary barrier to address some of her concerns with respect to the safety of her children.

We have carefully reviewed Applicant's proposed project and the gas safety analysis, and considered the safety

concerns raised by the public. Based on this, we conclude that the proposed gas transmission line will not pose an undue hazard to persons or property along the area traversed by the line.

d. Conformance with State and Local Laws and Regulations

Section 126(f) of the PSL requires the Commission to apply those applicable state or local laws and regulations relating to the siting of the transmission facilities, except where the Commission refuses to apply local laws or requirement that, as applied to the proposed facilities, are deemed to be unreasonably restrictive in view of existing technology, factors of cost or economics, or the needs of consumers. The Applicant identified a number of potentially applicable laws and initially sought the Commission's waivers for several local laws. By letters dated February 6, 2012, and February 10, 2012, NYSEG indicated that it was reducing the number of local ordinance waiver requests included in the Application. In the above mentioned letters, NYSEG eliminated Tables 2-1 and 2-2, and reduced to one the number of requests in Table 2-3.²³ By letter dated March 6, 2012, NYSEG informed the Commission that they were withdrawing their last waiver request by eliminating Table 2-3. This last waiver request addressed landscaping requirements contained in the Village of Horseheads Zoning regulations. NYSEG instead proposes to submit to the Commission a compliance filing that will show the plantings it proposes to make at the Gardner Road Metering and Regulator station.

Mrs. Riggs raised a question concerning the potential waiver of a local law by the Commission for NYSEG to obtain a

²³ The titles for the Tables are as follows:
Table 2-1: Town of Big Flats Local Ordinance Waiver Requests
Table 2-2: Town of Horseheads Local Ordinance Waiver Request
Table 2-3: Village of Horseheads Local Ordinance Waiver Request

permit before they can begin cutting trees for the project. DPS Staff discussed this issue with NYSEG, which confirmed with Town officials from the Towns of Big Flats and Horseheads that this clause in their local laws pertains to larger tracts of managed forest lands. Both towns indicated that NYSEG was exempt from this local law.

Regarding conformity with the State Building Codes, Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations prescribing minimum standards for administration and enforcement of such Codes. Pursuant to such rules and regulations, the Department of Public Service is not an agency with the requisite training or qualifications to determine whether the compressor station buildings, as proposed, are in conformance with applicable provisions of the State Building Codes. Therefore, the Applicant shall be required to obtain review and approval of the Metering and Regulator station buildings, and inspection of the construction work by a public entity recognized by the Department of State as having the requisite training or qualifications. This condition is reasonable to ensure the safety of the facility both during and after construction.

Based on the foregoing, we find that NYSEG would not require any waivers of local laws pursuant to PSL Section 126(f), and that the pipeline would conform to applicable laws and regulations. The Applicant intends to obtain all necessary town and village permits to construct the proposed facilities.

e. Public Interest, Convenience, and Necessity

The need for the pipeline, as discussed above, is an important consideration in finding that it will serve the public interest and necessity. The imposition of appropriate requirements, conditions, and safeguards, as described herein, will ensure adequate protection of the environmental and serve

the public convenience. Accordingly, based on the record before us, we find and determine that the proposed pipeline is in the public interest, convenience, and necessity.

2. Other Matters

a. Eminent Domain and Easements

The Applicant indicates that it is engaged in the process of easement acquisition for the project. To date, easements have been secured for approximately 62 percent of the project, with another 17 percent in positive negotiations. NYSEG currently estimates 9 individual properties, which represent approximately 21 percent of the project length, will likely proceed to eminent domain.

The route of the proposed facility requires crossing town, county, and village roads. The Applicant has reviewed the pipeline road crossings with the appropriate entities and is in the process of obtaining road permits, affirmations and consents. Copies of all road permits, affirmations and consents will be sent to the Secretary prior to the commencement of construction. Access to the proposed pipeline will be from existing public and private roads (with landowner's permission), designated off-ROW access roads, and private property that the Applicant has been granted access to by landowners.

Mr. Giammichele was concerned about the process of eminent domain, which he maintains is unfair. Similar concerns were also raised by several individuals. Some contended that the Applicant should not be permitted to utilize eminent domain power because construction of the pipeline would not generally be for the public good. While we recognize the public's concerns, we note that the Commission does not grant the power of eminent domain. NYSEG is organized as a pipeline corporation, as defined by Article 7 of the New York Transportation Corporations Law (TCL). The TCL provides that a

pipeline corporation has the power to acquire real estate for its corporate purposes and the ROW through any property in the manner prescribed by the Eminent Domain Procedure Law. By granting a Certificate, the Commission's decision acts as a finding of need and leaves the rate of compensation to be decided pursuant to the Eminent Domain Procedure Law. In this instance, the Applicant has indicated that it will use eminent domain to acquire the remaining property rights for the construction of the proposed pipeline.

b. Retail Gas Service

Mr. Giammichele inquired about getting local gas service for residences along Upson Road. In a DPS Staff information request, NYSEG was asked to indicate what process and standards are used to determine whether requests for new gas service can be fulfilled. The Applicant explained that each request submitted to NYSEG's Call Center by a customer seeking natural gas service generates a service notification containing details of the customer request and contact information, along with a desired date of service. These requests are routed electronically to the appropriate NYSEG division office where, upon confirming the applicant is located in an approved franchise area, the request is reviewed with the customer. A determination is then made as to what, if any, new facilities are needed to serve the customer and whether a contribution will be required from the customer, as required by tariff, for the cost of those facilities. Once that determination is made, the findings are presented to the customer. If the customer elects to accept gas service, the customer signs and returns a gas commitment letter stating the customer will take gas service within 90 days of the completion by NYSEG of the new gas facilities. If a contribution from the customer toward the cost

of the facilities is required, that contribution must be received by NYSEG before construction can start.

NYSEG also explained that they can provide natural gas service to the residences along Upson Road as part of the proposed project. However, the facilities that would have to be installed may be in excess of what NYSEG is required by tariff to provide a customer without a customer contribution toward the cost of those facilities. To determine the contribution, the number of potential new customers would first have to be determined. A study would then be performed to identify the facilities that would have to be installed to provide service to those customers expressing an interest in service. To serve customers from the proposed project, the proposed gas transmission main would have to be tapped and facilities installed to transport the gas to those customers. Taking into consideration the number and location of new customers that commit to service, NYSEG would determine the most cost effective arrangement of facilities needed to serve the customers. Transmission and distribution mains to transport the gas and pressure regulating stations to reduce and regulate the gas pressure are among the facilities that would be considered for installation.

NYSEG is required by tariff to bear the costs of facilities comprising 100 feet of main for each new residential non-heat customer and 100 feet of main and 100 feet of service for each new residential heat customer. All costs in excess of the cost of those facilities, including the cost of the tap of the transmission main and the regulation to reduce pipeline pressures to the level utilized for distribution purposes, would be the responsibility of the customer. To date, only one Upson Road resident (at 122 Upson Road) has requested service. The results of a study performed by NYSEG's Elmira Field Planning

Office determined that 952 feet of main and 297 feet of service would be required to serve that customer. Because of the required facilities, NYSEG would need to install facilities in excess of its tariff and a contribution would be required by the customer for the installation of those facilities. That customer has not committed to receiving gas service.

3. Water Quality Certification

The Applicant requested that the Commission issue a Water Quality Certification pursuant to §401 of the CWA for wetland and stream crossing activities associated with construction of their proposed pipeline. The CWA requires a federal permit to discharge dredged or fill material into "navigable waters" (33 U.S.C. §§ 1311(a) and 1342(a)) and requires an applicant for a federal permit to provide a Water Quality Certification from the State that the discharge will comply with state water quality standards.²⁴

Given the normal 60-day period for granting the Water Quality Certifications established in federal rules (33 C.F.R. §325.2(b)(1)(ii)), we delegated responsibility for granting Water Quality Certifications in connection with Article VII Certificates to the Director of the Office of Energy Efficiency and the Environment (Director). We anticipate that the Director will issue a Water Quality Certification after the Certificate has been granted.

The Applicant proposes to use a horizontal directional drill method for all of the crossings of the NYS Class C(t) streams if outside the in-stream construction window between May

²⁴ Section 410 of the CWA defines "navigable waters" as waters of the United States, including the territorial seas (33 U.S.C. §1362(7)). The Army Corps of Engineers, which issues the permits, defines these waters to include tributaries (33 CFR §328.3(a)(5)) and other types of water sources.

15th and October 1st. All other intermittent streams and drainages are intended to be crossed using an open-cut, dry stream crossing method, utilizing the "dam and pump around" method, although the Applicant is not precluded from making a horizontal directional drill or conventional bore crossing. Ten days before pipeline construction commences across any stream or drain, we will require a meeting to be held among Staff, the Applicant, and the pipeline contractor to determine the most appropriate crossing methods and techniques to be applied, as well as restoration methods to be used in connection with the water courses (see ordering Clause 1(1) below).

CONCLUSION

In accordance with the above discussion, the Commission finds and determines that NYSEG's proposed facility: a) is needed to enhance competition and promote reliability of the natural gas system; b) involves temporary and limited probable environmental impacts; c) will not pose an undue hazard to persons or property; d) will conform to applicable state and local laws; and e) will serve the public interest, convenience, and necessity. Accordingly, this order grants a Certificate to NYSEG to construct its proposed pipeline facility in accordance with the conditions identified herein.

The Commission orders:

1. A Certificate of Environmental Compatibility and Public Need (Certificate) is granted to New York State Electric & Gas Corporation (the Certificate Holder), pursuant to Public Service Law §121-a(3), authorizing construction of the fuel gas transmission line and associated facilities (the Project) identified in the Certificate Holder's Application and as described in the body of this order. The Certificate Holder

shall comply with the requirements identified and referred to in the Discussion section of this order, and the following conditions.

- (a) The Certificate Holder shall apply to the Project the measures and techniques for environmental management, construction, and restoration that are indicated in the Application, the Environmental Management and Construction Standards and Practices (EM&CS&P), the Storm Water Pollution Prevention Plan, and are contained in this order.
- (b) The Certificate Holder shall report to Department of Public Service Staff (DPS Staff) any proposed changes to the approved Project, including, but not limited to, proposed changes to the pipeline location or diameter, or approved measures and techniques to be applied to the environmental management and construction of this project. DPS Staff shall refer to the Director of the Office of Energy Efficiency and the Environment (OEEE), for approval, those proposed changes that will not cause a substantial change in the environmental impact, or cause a change in the location of any portion of the certified site or right-of-way. DPS Staff shall refer all other proposed changes to the Public Service Commission (Commission) for approval. The Certificate Holder shall not execute any proposed change until it receives written notification from the Director of OEEE or the Commission.

- (c) All aspects of the Project shall be subject to inspection by authorized DPS Staff representatives.
- (d) The Certificate Holder shall notify the Secretary to the Commission (Secretary) of the proposed commencement date at least 10 days prior to the start of construction.
- (e) The Certificate Holder shall designate a full-time environmental and construction monitor(s) with stop-work authority over all aspects of the Project, and full-time Project supervisor(s). The full-time supervisor(s) and the full-time environmental and construction monitor(s) shall be on site during all phases of construction and restoration, and be equipped with sufficient documentation, transportation, and communication equipment to effectively monitor contractor compliance with the provisions of this order, applicable sections of the Public Service Law, the EM&CS&P, and the SWPPP.
- (f) The Certificate Holder shall hire an agricultural specialist and/or an environmental monitor with comparable agricultural construction and restoration experience to monitor construction and restoration of the Project in active agricultural fields;
- (g) The Certificate Holder shall provide construction contractors with complete copies of this order and any subsequently issued orders modifying this order, the EM&CS&P, the SWPPP, updated construction drawings and any site-specific plans. The Certificate Holder shall notify all

construction contractors that the Commission may seek to recover penalties for violations of the Certificate from the Certificate Holder, and the construction contractors, and that construction contractors may also be liable for other fines, penalties, and environmental damage caused.

- (h) At least 15 days prior to the commencement of construction, the name, contact information, and qualifications of the environmental monitor(s) shall be submitted to DPS Staff.
- (i) At least ten days prior to the start of construction the Certificate Holder shall hold a pre-construction meeting. An agenda, location, and attendee list shall be agreed upon between DPS Staff and the Certificate Holder. The Certificate Holder shall supply draft minutes from this meeting to all attendees, and the attendees may offer corrections or comments. The Certificate Holder shall issue the finalized meeting minutes to all attendees. If, for any reason, the construction contractor(s) cannot finish the Project, and a new contractor is needed, then another pre-construction meeting shall be held in the same manner as the initial pre-construction meeting as outlined above in this ordering clause.
- (j) At least ten days prior to construction in active agricultural fields, representatives from the Department of Agriculture and Markets (Ag & Mkts), DPS Staff, the Certificate Holder, and Certificate Holder's contractor shall conduct a field review of the Project to discuss compliance

with the recommendations of Ag & Mkts described above regarding construction, restoration, and mitigation to be used in active agricultural fields. Agricultural mitigation, restoration and clean-up may include, but shall not be limited to the following: full-width topsoil stripping, removal of rock four inches or larger, importing of topsoil, surface or subsurface shattering, deep tillage, repair of broken tile or tiling systems, and installation of new intercept tiles.

- (k) If blasting is necessary, at least ten days before any blasting operations begin on this Project, a meeting shall be held with representatives from the DPS Staff's Office of Energy Efficiency and the Environment, and the Office of Electric, Gas and Water, Safety Section, the Certificate Holder, and Certificate Holder's contractor to discuss the blasting procedures to be used, along with other pertinent information. If any blasting is necessary in the immediate vicinity or in stream channels, the blasting shall be performed when the stream channels are dry. If any blasting is necessary, at least ten days before any blasting commences, the Certificate Holder shall notify, by letter, all residents residing within 1,500 feet of the pipeline centerline of when blasting will commence, what residents might expect to hear, and a telephone number and name of a contact person available to answer questions. A copy of the letter shall also be provided to the Secretary.

- (l) At least ten days prior to pipeline installation across any stream or drain on this Project, Certificate Holder shall meet with DPS Field Staff and Certificate Holder's contractor to determine the type of crossing method, erosion control measures, and materials used to install the stream crossing. Meeting notes shall be taken by Certificate Holder of the issues discussed at this meeting and a copy of these notes shall be distributed to the attendees prior to this construction.
- (m) At least five days prior to the commencement of construction, the Certificate Holder shall provide the Secretary with the landowner easement agreements or other documents evidencing the right to utilize the properties indicated for the Project.
- (n) Prior to the commencement of construction, the Certificate Holder shall provide the Secretary with a signed copy of the Stormwater Pollution Prevention Plan (SWPPP).
- (o) Prior to the commencement of construction, Certificate Holder shall provide notice to the Secretary that all necessary local, state, and federal permits required in connection with this Project have been obtained, and shall provide a copy of such permits and a copy of all other plans and documents discussed in the body of this order. The Certificate Holder shall comply with the terms and conditions of such permits.
- (p) After the clearing and grading of the ROW on the Grella Properties west of Woodgate Drive, the

Certificate Holder shall install and maintain safety fence at both edges of NYSEG's proposed ROW until authorized by DPS Staff to be removed.

- (q) The Certificate Holder shall consult with each local department or agency having jurisdiction over public roads that will be crossed or paralleled by the Project or used for direct access to the right-of-way.
- (r) At least 15 days before the commencement of construction within the right-of-way limits of such roads, or taking direct access from such roads, the Certificate Holder shall notify each such department or agency of the approximate date work will begin, the crossing locations and/or uses, depth of the Project crossings, details and specifications for repaving (if any), and any other related considerations.
- (s) Prior to the commencement of construction, the Certificate Holder shall supply traffic control plans for all public roads that will be crossed by the Project to DPS Staff and the Secretary.
- (t) Prior to the commencement of construction, the Certificate Holder shall supply a copy of a Winter Stabilization Plan to the Secretary.
- (u) At least ten days prior to the commencement of clearing operations, the Certificate Holder shall provide to the Secretary engineering drawings showing the bore locations, if applicable, and the vegetative stream buffer zones on either side of the streams proposed to be directionally bored or drilled as well as the location of the entrance and exit points of the bore.

- (v) At least ten days prior to the commencement of construction, the Certificate Holder shall provide the Secretary with a "Frac-Out Contingency Plan" that includes, but is not limited to, what procedures will be followed in the case of a frac-out, procedures for mitigating frac-outs, a description of what equipment will be used, who will be notified, and a description of where clean up equipment and materials will be located during drilling.
- (w) Prior to the commencement of construction, the Certificate Holder shall make available to DPS Staff a copy of construction standards that conform with 16 New York Codes, Rules and Regulations (NYCRR) Part 255.303. These standards shall encompass all phases of construction, including, but not limited to: welding procedure qualifications, welder qualifications, non-destructive testing procedures, coating, and backfilling.
- (x) If the black plastic, polyethylene coated steel pipe is unavailable, Certificate Holder shall use coated steel pipe that meets or exceed the coating requirements specified in 16 NYCRR §255.461.
- (y) In the event of a change in the steel pipe coating, as contemplated in condition "(x)" above, Certificate Holder shall amend Appendix 7-D (16 NYCRR Appendix 7-D) to reflect the coating change and shall send it to DPS Gas Safety Section Staff in both Albany and Syracuse.

- (z) If natural stratification of soil horizons or natural soil drainage patterns are altered by construction occurring on lands within or adjoined to agricultural areas, the Certificate Holder shall rectify the effects with measures such as subsurface intercept drain lines. Selection of the type of intercept drain lines to be installed to prevent surface seeps, and the seasonally prolonged saturation of the backfilled trench zone and adjacent areas, shall be performed by the qualified agricultural specialist and/or environmental monitor retained in accordance with condition "(f)" above. All drain lines shall be installed according to the Natural Resource Conservation Service standards and specifications for subsurface drains and shall include the use of Schedule 40 or better outlet pipe and corrugated polyethylene drain that meets or exceeds the American Association of State Highway and Transportation Officials M252 standards. Drawings of such drain locations shall be provided to DPS Staff and Ag & Mkts Field Staff during monitoring and follow-up remediation;
- (aa) The Certificate Holder shall temporarily stabilize all disturbed agricultural areas according to measures included in the Ag & Mkts' *Seeding, Fertilizing and Lime Recommendations for Gas Pipeline Rights-of-Way Restoration in Farmland*;
- (bb) All construction and restoration in active agricultural fields shall be done when soil

moisture conditions are suitable for construction equipment, as determined by DPS Field Staff in consultation with the Staff of Ag & Mkts and the Certificate Holder. Where wet soil conditions are present, decompaction of the subsoil shall be required using a deep ripper or heavy duty chisel plow and shall be completed when soil conditions have dried sufficiently as determined by the agricultural specialist and/or environmental monitor retained in accordance with condition "(f)" above, in consultation with Ag & Mkts and DPS Field Staff.

- (cc) The Certificate Holder shall use straw bales to construct erosion control devices on the Project site.
- (dd) The Certificate Holder shall use native upland and native wetland vegetation for both temporary stabilization and permanent restoration of the right-of-way.
- (ee) Stream and wetland crossings, if bored, shall be subject to the following: 1) exit and entry points shall be distanced from the stream bank so as to minimize disturbance, to the extent practicable; 2) prior to boring, all sediment stabilization measures shall be in place to prevent unnecessary erosion and associated turbidity and sedimentation; 3) no increase in downstream turbidity or sedimentation is permitted; 4) any water accumulated in the isolated work area shall be managed in a manner that prevents a visible contrast in the stream below the work area; 5) prior to boring, all

sediment stabilization measures shall be in place to prevent unnecessary erosion and associated turbidity and sedimentation; and, 6) equipment and provisions of the Frac-Out Contingency Plan shall be readily accessible for locations where streams are crossed using horizontal directional drilling technology.

- (ff) During periods of work activity, flow immediately downstream of the worksite shall equal flow immediately upstream of the worksite.
- (gg) There shall be no increase in turbidity downstream of the construction activity that will cause a substantial visual contrast to natural conditions.
- (hh) For all stream crossings, the pre-disturbance flow regime shall be maintained.
- (ii) The Certificate Holder shall locate any boring pits as far from the top of the stream banks or wetland edges as possible.
- (jj) If any additional stacking or extra work room areas are needed, the Certificate Holder shall follow the change process as outlined in Ordering Clause 1(b) above and provide evidence of consent of the property owner to occupy that area.
- (kk) The Certificate Holder shall confine vegetation and tree removal to the minimum extent necessary for construction, operation, and maintenance of the facilities certified hereunder. During clearing operations, all brush and trees shall be felled into the right-of-way to minimize damage to trees and structures on adjacent land. Outside designated construction areas, all

ornamental trees or shrubs damaged or destroyed shall be replaced with equivalent trees or shrubs except where the owner declines replacement.

- (ll) The Certificate Holder shall exercise all necessary and reasonable precautions to minimize sedimentation and soil erosion in work areas and on the right-of-way. The Certificate Holder shall take prompt and effective action to control sedimentation and erosion in the event it does occur.
- (mm) In areas of the right-of-way subject to soil erosion, including, but not limited to, stream approaches, the Certificate Holder shall install temporary erosion control devices as soon as practicable, but in no event later than the end of the work day.
- (nn) Where final restoration of the right-of-way cannot be completed due to weather conditions, the right-of-way shall be temporarily stabilized according to the measures included in the following documents until final restoration can be completed: 1) Ag & Mkts' "Seeding, Fertilizing, and Line Recommendation for Gas Pipeline Right-of-Way Restoration in Farmland;" 2) the EM&CS&Ps; and, 3) the Winter Stabilization Plan.
- (oo) The Certificate Holder shall seed and mulch the right-of-way no more than five days after final grading.
- (pp) The Certificate Holder will order the new buildings for the Metering and Regulator stations that will have the outside finish (sides and

roofs) with earth tone colors, and not a "bright white."

- (qq) The maximum allowable operating pressure of the pipeline between Inergy Midstream, L.P.'s (Inergy) Seneca Lake Storage West Pipeline and the Yawger Road Metering and Regulator station shall not exceed 1,341 pounds per square inch gauge (PSIG), and between Yawger Road and Gardner Road shall not exceed 1,100 PSIG. The maximum allowable operating pressure of the 300 feet of 20-inch steel distribution line between the Gardner Road Metering and Regulator station and the Certificate Holder's existing 12-inch steel distribution line shall not exceed 55 PSIG.
- (rr) The Certificate Holder shall design, construct, test, operate, and maintain the pipeline in accordance with the provisions of 16 NYCRR Part 255.
- (ss) At least 30 days before construction commences, the Certificate Holder shall submit a letter of intent and an Appendix 7-D (16 NYCRR Appendix 7-D) to DPS Gas Safety Section Staff in Albany and Syracuse.
- (tt) The Certificate Holder shall non-destructively test 100% of all welds for the Project.
- (uu) The Certificate Holder shall designate full-time welding inspector(s). The welding inspector(s) shall be present anytime there is active welding to ensure that the welding is being performed in accordance with the qualified procedure under 16 NYCRR §255.225.

- (vv) At least five days prior to commencement of any welding activities, the Certificate Holder shall notify DPS Gas Safety Section Staff in Albany and Syracuse of the date, time, and place of any welding procedure qualification or welder qualification tests to be conducted.
- (ww) At least 10 days before hydrostatic testing commences, the Certificate Holder shall provide to DEC and DPS Staff the information concerning the hydrostatic testing of the pipelines. At least five business days prior to starting the pre-activation strength test, the Certificate Holder shall notify DPS Gas Safety Section Staff in Albany and Syracuse.
- (xx) At least ten days before hydrostatic testing commences, the Certificate Holder shall notify, by letter, all residents residing within 1,500 feet of the pipeline centerline of the following information: 1) where hydrostatic testing equipment is located; 2) when testing will commence; 3) what residents might expect to hear; and, 4) a telephone number and name of a contact person available to answer questions. A copy of the letter shall also be provided to the Secretary.
- (yy) The Certificate Holder shall make available to DPS Gas Safety Section Staff the mill certification corresponding to the steel pipeline being used.
- (zz) If Inergy decides to change its maximum allowable operating pressure from 1,100 to 1,341 PSIG, the Certificate Holder shall submit all related

drawings and a narrative to the Secretary and the DPS Office of Gas and Water (Gas Safety Division) concerning the construction of an additional regulator building (Alternate 1 as indicated on Drawing No.6172- 5201 (Sheet 1 of 10) at the Yawger Road Metering and Regulator station. The drawings and narrative shall be submitted for DPS Staff review and comment 30 days prior to the commencement of construction of this additional regulator building.

- (aaa) The Certificate Holder shall arrange a meeting with DPS Field Staff after completing construction of the Metering and Regulator stations to assess preliminary planting plans for those stations. The Certificate Holder shall submit a compliance filing that reflects DPS Field Staff's assessment and indicates the plantings the Certificate Holder proposes to make at these stations.
- (bbb) Prior to the commencement of construction of the Yawger and Gardner Road Metering and Regulator stations and related buildings, the Certificate Holder shall first obtain review and written certification by a public entity recognized by the Department of State as having the requisite training or qualifications that the construction plans for the Metering and Regulator stations are in compliance with the New York State Uniform Fire Prevention and Building Code.
- (ccc) Within 10 days of receiving any written certification as described in "(bbb)" above, Certificate Holder shall file a copy of such

certification with the Secretary and shall serve a copy on the Director of the Office of Energy Efficiency and the Environment.

- (ddd) During construction of the Yawger and Gardner Metering and Regulator stations and related buildings, the Certificate Holder shall obtain periodic inspections of the construction work by a public entity recognized by the Department of State as having the requisite training or qualifications to inspect such work for compliance with the New York State Uniform Fire Prevention and Building Code.
- (eee) Prior to the use or occupancy of the Yawger and Gardner Metering and Regulator stations and related buildings, the Certificate Holder shall first obtain written certification by a public entity recognized by the Department of State as having the requisite training or qualifications that the construction was completed in compliance with the New York State Uniform Fire Prevention and Building Code.
- (fff) Within ten days of receiving any written certification as described in "(eee)" above, the Certificate Holder shall file a copy of such certification with the Secretary and shall serve a copy on the DPS Director of the Office of Energy Efficiency and the Environment.
- (ggg) The Certificate Holder shall file as-built drawings with the Secretary.
- (hhh) Within ten days after the pipeline is placed in service, the Certificate Holder shall notify the Secretary in writing of this event.

- (iii) Within one year after the in-service date of the Project, the pipeline right-of-way shall be fully restored.
- (jjj) Within ten days after the right-of-way is completely restored, the Certificate Holder shall notify the Secretary in writing of this event.
- (kkk) The Certificate Holder shall promptly notify DPS Staff and the Secretary in writing should they decide not to complete construction of all or any portion of this project, and shall serve a copy of such notice upon all statutory parties.
- (lll) If construction of the Project hereby certified is not commenced within 12 months, the Certificate Holder shall submit to the Secretary, no later than 13 months after issuance of this order, a fully supported justification as to why this Certificate should not be vacated.

2. The Secretary is authorized to extend the deadlines set forth in this order.

3. This proceeding is continued, but shall be closed 30 days after the right-of-way has been completely restored, unless the Secretary finds good cause to continue this proceeding further.

By the Commission

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

DETAILED DESCRIPTION OF TRANSMISSION FACILITY

Commencing at the 16-inch Inergy Seneca Lake Storage West Pipeline the proposed 8-inch diameter pipeline will follow an easterly route 95 feet and will connect the proposed Metering and Regulator station and will cross under the Talisman Energy 10-inch gas pipeline, then northeast 140 feet and will cross one wetland (partial - Wetland KK) and one seasonal public road (Yawger Road), and then east 525 feet and cross three wetlands (Partial-Wetland KK, Wetland AA, and Partial-Wetland KK) At this point the proposed pipeline will travel northeast 120 feet and cross one intermittent stream (Stream Z/AA) and one wetland (Partial-Wetland Z); then east 1,725 feet and cross one wetland (Wetland X), one perennial stream (Stream Y), and one public road (Upson Road); and then northeast 40 feet and cross the 30-inch Millennium Gas Pipeline and the inactive 12-inch Columbia Gas Pipeline. At this juncture the pipeline will travel east 1,875 feet and cross two wetlands (Wetlands W&V) and two drainage ditches; then will continue east 3,810 feet and will cross three wetlands (Wetlands OW, Q, and R), two intermittent streams (Streams M&N) and one perennial stream (Stream O - Sing Sing Creek,), one public road (Chambers Road), and two underground fiber optic cables and one four-inch gas pipeline; and then will continue easterly 1,610 feet and cross one wetland (Wetland U) and the 30-inch Millennium Gas Pipeline. The proposed pipeline will then travel northeast 520 feet and cross one intermittent stream (Stream JJ); then easterly 1,960 feet and will cross three wetlands (Wetlands II, III and II/III), two intermittent streams (Stream II & 5-2) and two drainage

ditches, one public road (Barnes Hill Road)¹ one private road and one driveway, and one two-inch gas pipeline. At this point, the proposed pipeline will travel east 1,120 feet and cross one wetland (Wetland L) and one intermittent stream (Stream L); then southeast 60 feet and cross the active 12-inch Columbia Gas Pipeline; then east 540 feet and cross one drainage ditch; then northeast 80 feet and cross the 12-inch Columbia Gas Pipeline; and then east 930 feet and cross two wetlands (Wetlands K & J), one intermittent stream (Stream J), one public road (Woodgate Drive) and one 2-inch plastic gas pipeline. At this juncture the proposed pipeline will head northeast 290 feet and crosses one intermittent stream (Stream I) and one public road (Prospect Hill Road); then southeast 570 feet and will cross one intermittent stream (Stream H) and the 12-inch Columbia Gas Pipeline; then east-northeasterly 1,100 feet and cross one wetland (Wetland G) and one intermittent stream (Stream F); and then east 1,885 feet and will cross 5 wetlands (Wetlands A,B,C,D, and E). The proposed pipeline will travel south 195 feet and cross the existing 26-inch and 30-inch Dominion Gas Pipelines, then east-southeast 425 feet and cross one drainage ditch (Ditch EE), one public road (County Route 57) and one 12-inch gas distribution line; then south-southwest 260 feet; then southeast 800 feet and will cross one public road (Oak Hill Road) and one underground telephone cable; then southwest 115 feet; then south 45 feet; and then southeast 50 feet. At this

¹ On either side of Barnes Hill Road, per information from the Public Statement (4/26/2012) NYSEG tried to accommodate a request by a landowner, Dorianne Riggs, to move the proposed pipeline alignment farther to the north away from their residence. NYSEG explains that this proposed re-alignment would add an additional 132 feet of pipeline to the project but still would remain on the Riggs Property (see discussions above).

point, the pipeline will travel south-southeast 2,080 feet and will cross an existing four-inch gas pipeline; then south-southwest 45 feet; then south-southeast 990 feet and will cross one wetland (Wetland DD); then southwest 120 feet; then southeast 80 feet; and then southwest 565 feet and will cross one drainage ditch (Ditch CC), one public road (Gardner Road), one water line (Village of Horseheads), one 12-inch gas pipeline, and one gas distribution pipeline. At this juncture, the proposed pipeline will travel west 110 feet; then northwesterly 255 feet and will parallel a section of Gardner Road; then southwest 150 feet; then west 160 feet; and then southwest 70 feet and will connect to the proposed NYSEG's Gardner Road Metering and Regulator station. The section of pipeline described above will traverse a distance of 25,627 feet (approximately 4.9 miles). At this juncture, NYSEG will construct approximately 300 feet of 20-inch steel gas pipeline that will connect the proposed Gardner Road Metering and Regulator station to NYSEG's two existing 12-inch gas distribution lines.