

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

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

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Case No. 10-T-0139

**APPLICANTS' SUPPLEMENTAL REPLY BRIEF**

The Applicants submit this Supplemental Reply Brief pursuant to the October 10 Ruling.<sup>1</sup>

**1. Reply to IPPNY**

In its comments on the Joint Motion to Incorporate NYISO's 2012 RNA into the record in this proceeding, IPPNY ignores the importance of that updated RNA in evaluating Julia Frayer's analysis concerning the Capacity Price Savings produced by the Facility and Mr. Younger's criticisms of that analysis. Instead, IPPNY presents an interesting but fundamentally irrelevant discussion of why the 2012 RNA is not the NYISO's final word on whether additional generating capacity will ultimately be required to meet applicable reliability requirements in New York City and surrounding areas during the period from 2017 to 2026.

IPPNY's claims concerning NYISO's Comprehensive Reliability Planning process have no relevance to this proceeding, where Applicants are seeking authorization to construct the Facility with no reliance on a contract with NYISO or any other utility in New York State. In

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<sup>1</sup> Capitalized terms used but not defined in this Supplemental Reply Brief shall have the same definitions provided in Applicants' Supplemental Brief filed in this proceeding on October 15, 2012.

such circumstances, the only issue before the Commission is the impact of NYISO's 2012 RNA and the factual findings made therein on the testimony in this proceeding concerning the benefits of the Facility. As Applicants explained in their Supplemental Brief, NYISO's findings in its Final 2012 RNA make clear that Mr. Younger's static assumption that all existing generators will continue to operate throughout the period from 2017 to 2026 cannot be squared with competitive market realities. Instead, those findings lend credence to the more dynamic model of investment and disinvestment in generation in New York State presented by Ms Frayer in her testimony concerning the Capacity Price Savings associated with the Facility.

IPPNY's claim that NYISO's 2012 RNA is based on "conservative assumptions" that should not be adopted by the Commission in this case also has no bearing on the issues in this case. To begin with, IPPNY offers no citations to any evidence in the record to support this claim, and nothing in NYISO's 2012 RNA evidences any intention by NYISO to employ assumptions in its RNA that are in any way more conservative than the standards it uses at other times. In the absence of any record support, this factual claim must be rejected.

More importantly, IPPNY fails to recognize that in light of the Commission's well-established policy favoring competitive wholesale power markets, IPPNY bears a heavy burden to justify its contention that the Commission should substitute its judgment for competitive market forces in determining whether or not the Facility may go forward.<sup>2</sup> In such circumstances, the Commission should be at least as conservative as NYISO in its assessment of the extent to which additional resources may be required to meet future reliability needs, if not

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<sup>2</sup> This burden is particularly heavy in this case due to the evidence in the record demonstrating: (1) that the total long-run costs of the Facility will be between \$0.4 and \$2.6 billion less than those of a comparable gas-fired generating plant, TR at 199 lines 15-17 (Paynter Rebuttal); and (2) that many of IPPNY's individual members are themselves moving forward with new gas-fired generating facilities to serve consumers in New York City and surrounding areas, TR at 542 line 25 to 555 line 16 and TR at 592 line 5 to 595 line 17 (Younger Cross) and Hearing Exhibit Nos. 161, 167, 168, and 173.

more so. This is particularly true given the long need times associated with the Facility and other merchant transmission projects.

**2. Reply to Central Hudson**

Central Hudson contends that the determinations made by NYISO in its Final 2012 RNA do not provide a basis to support the required finding that the Facility “conforms to a long-range plan for expansion of the electric power grid.”<sup>3</sup> Applicants agree that NYISO’s determination with respect to future capacity needs in New York City and surrounding areas constitutes only one fact that the Commission must evaluate in making this determination, but respectfully submit that the existence of such capacity needs – and the ability of the Facility to provide a market-based response thereto – are both important factors that the Commission should consider in making that determination. This is especially true in light of the evidence in the record in this proceeding demonstrating: (1) that the Facility will in fact reduce congestion on and enhance the reliability of the New York State Bulk Power System;<sup>4</sup> and (2) that it will recover all or substantially all of its costs from users of its transmission facilities rather than from captive retail customers.

Respectfully submitted,

*/s/ George M. Pond*

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<sup>3</sup> Central Hudson Supplemental Brief at 4, *citing* PSL § 126(d)(2).

<sup>4</sup> *See* Applicants’ Initial Post-Hearing Brief at 100-102.