

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 18-T-0207 - Application of New York Power Authority for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for the Rebuild of the Existing Moses-Adirondack 1&2 230 kV Transmission Lines Extending approximately 86 Miles from the Robert Moses Switchyard in the Town of Massena, St. Lawrence County to the Adirondack Substation in the Town of Croghan, Lewis County, New York.

ORDER GRANTING CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED

Issued and Effective: November 14, 2019

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on November 14, 2019

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard

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(Issued and Effective November 14, 2019)

BY THE COMMISSION:

INTRODUCTION

In this order, we grant the Power Authority of the State of New York, doing business as the New York Power Authority (NYPA), a Certificate of Environmental Compatibility and Public Need (Certificate), pursuant to Public Service Law (PSL) Article VII. This Certificate authorizes NYPA to rebuild and operate its existing Moses-Adirondack 1 and 2 transmission lines and to construct certain upgrades to the Moses Switchyard and the Adirondack Substation (the Project). The Project is

needed to rebuild facilities that are well past their design lives to make them less susceptible to failure and reduce maintenance costs. The proposed transmission lines are needed to deliver electricity, including carbon-free hydroelectric power, from Northern New York to the rest of the State; to re-energize the bulk electric system as a component of the New York System Operator's (NYISO's) System Restoration Plan in the event of a future widespread outage; and to provide increased capacity for future expansion to meet New York's Clean Energy Standard.

BACKGROUND AND PROCEDURAL HISTORY

On April 5, 2018, NYPA filed an application (Application) for a Certificate granting it authority to rebuild and operate its existing 230 kV Moses-Adirondack 1 and 2 transmission lines (the M-A 1&2 lines). The M-A 1&2 lines extend approximately 86 miles from the St. Lawrence Power Project's Robert Moses Power Dam Switchyard (Moses Switchyard) in the Town of Massena, St. Lawrence County, to the Adirondack Substation in the Town of Croghan, Lewis County, and to construct certain upgrades to the Moses Switchyard and the Adirondack Substation.

NYPA proposed to divide the Project into two phases. Phase One would consist of replacing 78 miles of the two lines currently configured as single circuits on separate wooden H-frame structures with two new single-circuit lines on steel monopoles. Although NYPA intended to design and construct the transmission lines with the capacity to operate at 345 kV, the Application indicated that the initial operating voltage would be 230 kV. Phase Two would involve replacing the remaining length of the transmission lines with two single circuits on steel monopoles and upgrading the Moses Switchyard and the Adirondack Substation to operate at 345 kV. Except for the

approximately one-mile reroute at the State University of New York at Canton (SUNY Canton) campus, NYPA proposed to construct the Project entirely within an existing right-of-way (ROW) that it maintains or on other property that it owns or controls.

With its Application, NYPA submitted a motion requesting waivers of certain of the Commission's regulations governing the content of an application for a Certificate. Specifically, as amended on August 3, 2018 to clarify its requested waivers, NYPA sought waivers of 16 NYCRR §§86.3(a)(1), 86.3(a)(2), 86.3(b)(2), 86.4(b) and 88.4(a)(4), relating to the filing of certain maps, aerial photographs, and a System Reliability Impact Study (SRIS). Following notice and an opportunity to comment on the waiver requests, the Commission granted NYPA's waiver motion on September 17, 2018.¹ Among other things, the Commission granted NYPA's requests to submit a System Impact Study (SIS) instead of an SRIS and that its Application not be determined to be incomplete absent submission of an SIS for Phase Two of the Project. In doing so, the Commission stated that, "[i]n the future, when NYPA undertakes Phase Two of the Project to allow it to operate the Project at 345 kV, NYPA must provide with its request to amend any certificate issued in this proceeding an SIS addressing system impacts of the Project operating at 345 kV."²

By letter dated May 9, 2018, the Secretary to the Commission informed NYPA that its Application contained certain deficiencies that needed to be cured before the Application could be deemed to comply with PSL §122. NYPA filed supplements

¹ Case 18-T-0207, Application of New York Power Authority for a Certificate of Environmental Compatibility and Need Pursuant to Article VII for the Rebuild of the Existing Moses-Adirondack 1&2 Transmission Lines, Order on Waiver Requests (issued September 17, 2019).

² Id., p. 9.

to its Application on June 19 and August 3, 2018. By letter dated September 21, 2018, the Secretary notified NYPA that, as supplemented and pursuant to the Commission's order granting NYPA's waiver requests, the Application was compliant with PSL §122 as of September 17, 2018.

In a ruling issued on December 19, 2018, party status was granted to the Towns of Canton, Hermon, Louisville, Massena and Norfolk and to the Municipal Electric Utilities Association. The ruling also awarded \$20,000 in intervenor funds to each of the Towns awarded party status. NYPA, the New York State Department of Environmental Conservation (DEC), the New York State Department of Agriculture and Markets (DAM), and trial staff of the Department of Public Service (DPS Staff) requested party status and are deemed to be parties to this proceeding by operation of law.³

On December 28, 2018, NYPA filed a Notice of Impending Settlement Negotiations.⁴ That notice was served electronically on all active parties and the Adirondack Park Agency. Settlement negotiations continued for an extended period of time after the notice was filed. On September 20, 2019, NYPA filed a Joint Proposal (JP) signed by NYPA, DPS Staff, DEC and DAM (together, the Signatory Parties). The JP describes the Project as proposed by the Signatory Parties with various appendices attached, including proposed Commission findings, Certificate Conditions, specifications for developing an Environmental Management and Construction Plan (EM&CP), a proposed Wetland Mitigation Plan and a proposed Water Quality Certification.⁵ The

³ PSL §124(1)(a), (b) and (e) and PSL §124(2).

⁴ In accordance with 16 NYCRR §3.9, on January 4, 2019, the then co-presiding Administrative Law Judges (ALJs) reported to the Commission on the adequacy of the notice.

⁵ See JP Appendices C-G.

JP also includes general provisions that articulate the Signatory Parties' agreements and understandings.⁶ The Signatory Parties request that we fully adopt the JP's terms and provisions in approving the Project and granting the Certificate to NYPA. No party opposes the JP.

Public Outreach

On April 5, 2018, NYPA filed a Public Involvement Plan that details its public involvement outreach and information efforts. As stated in the JP, NYPA's public outreach included "letters to and meetings with local officials in areas affected by the Project, letters to property owners where there is access to the Project ROW, public open house meeting in the Towns of Massena, Canton and Harrisville, and meetings with groups interested in the Project."⁷ Specifically, NYPA sent all owners of property through which the Project ROW travels notification of the Project open houses, which were held over three consecutive days in the Towns of Harrisville, Canton and Massena, respectively. Announcements of the open house meetings also were placed in two local newspapers, the Daily Courier-Observer and the Watertown Daily.⁸

In addition, pursuant to PSL §122(2)(c), NYPA sent landowners a notice that it was filing the Article VII Application, describing the Project, stating that the Project may affect their property and providing instructions on how they

⁶ See JP ¶¶ 1-4, 6-9.

⁷ JP ¶75.

⁸ NYPA's Public Involvement Plan, p. 9.

could become a party to the proceeding.⁹ NYPA also published legal notice of the Project in the Watertown Daily Times on March 26 and April 2, 2018; created a website with information about the Project as well as links and a toll-free number for public comments; and provided copies of its Application to the Canton Free Library, the Croghan Free Library, the Hepburn Library of Herman, the Harrisville Free Library, the Massena Public Library, the Hepburn Library of Madrid, the Hepburn Library of Norfolk, the Potsdam Public Library and the Russell Public Library.¹⁰

On November 28 and 29, 2018, three information forums and public statement hearings were held in the Towns of Croghan, Canton and Massena, respectively. The Secretary issued notice of those events on October 29, 2018, NYPA subsequently mailed copies of the notice to potentially affected landowners, and the Commission issued a press release about the information forums and public statement hearings on November 21, 2018. Two people provided statements at the evening hearing in the Town of Croghan, one in favor of NYPA in general and the other in favor of the Project as providing work for members of Local 1249 of the International Brotherhood of Electrical Workers (IBEW).

Two speakers also provided comments at the afternoon hearing in the Town of Canton, one again in favor of the Project

⁹ PSL §122(2)(c) states that "to the greatest extent practicable, each landowner of land on which any portion of such proposed facility is to be located shall be served by first class mail with a notice that such landowner's property may be impacted by a project, including a description of the project and an explanation of how to file with the commission a notice of intent to be a party to the certification proceedings and the timeframe for filing such application."

¹⁰ The Towns of Pitcairn, Diana and Louisville do not have their own libraries. The Harrisville Library is the closest to the Towns of Pitcairn and Diana. The Massena Library is the closest to the Town of Louisville.

as providing work for members of IBEW Local 1249 and the other suggesting that the Project provided an opportunity to relieve traffic congestion in downtown Canton by constructing a two-lane bypass road in NYPA's existing right-of-way through the SUNY Canton campus. Although the second speaker recognized that the Project was "essentially necessary," he raised concerns that the extra kilovolt capacity resulting from the Project would be used to foster the development of future industrial-sized energy projects in the St. Lawrence County area, particularly large-scale wind farms, which he did not favor. In addition to a representative of IBEW Local 1249, the Mayor of the Village of Gouverneur and President of the Jefferson, Lewis and St. Lawrence Counties Central Trades and Labor Council, commented in favor of the Project at the evening hearing in the Town of Massena. The Mayor stated that the existing transmission lines required frequent and costly maintenance and needed to be replaced and that the Project would strengthen and modernize the electric grid and foster local business development.

Public Comments

A Notice of Joint Proposal and Opportunity for Public Comments was issued on September 26, 2019, inviting submission of public comments by October 17, 2019. No comments were filed before or in response to that notice.

Description of the Proposed Project

As described in Appendix B to the JP, NYPA's existing M-A 1&2 lines consist of approximately eight miles of double-circuit lattice structures and 78 miles of single-circuit predominantly wood H-frame structures operating at 230 kV. The M-A 1&2 lines occupy a 250-foot ROW and travel through 12 towns from north to south: Massena, Louisville, Norfolk, Madrid, Potsdam, Canton, Russell, Hermon, Edwards and Pitcairn in St. Lawrence County, and Diana and Croghan in Lewis County.

Approximately 1.8 miles of the ROW is located in the Adirondack State Park.¹¹

The M-A 1&2 lines start at NYPA's Moses Switchyard in the Town of Massena and traverse south for approximately 1.9 miles, crossing the St. Lawrence River, Barnhart Isle and the Wiley-Dondero Canal, and are co-located during that section with certain existing National Grid 115 kV electric transmission lines, in a 250-foot-wide ROW. The M-A 1&2 lines then run in a west-southwest direction for approximately 3.5 miles while co-located with the National Grid 115 kV lines. In a section approximately 1.6 miles long, the M-A 1&2 lines then turn to the north and then west to bypass the Alcoa Substation and the Massena Energy Project Substation. Next, the M-A 1&2 lines turn in a west-southwest direction before crossing the Massena Power Canal and continuing for approximately 2.1 miles until entering the Town of Louisville. The M-A 1&2 lines continue in a west-southwest direction for approximately 1.8 miles and cross County Route 41 before turning southwest and again being co-located with National Grid's 115 kV lines for an additional 3.6 miles, crossing State Highway 37 and the Grasse River. From that point, the M-A 1&2 lines begin to run parallel to NYPA's Massena-Marcy 765 kV electric transmission line and run in a southwest direction for another 3.1 miles until crossing into the Town of Norfolk.¹²

The co-located ROWs for the National Grid 115 kV lines, the Massena-Marcy 765 kV line and the M-A 1&2 lines continue in a southwest direction for approximately 2.4 miles within the Town of Norfolk, at which point co-location with National Grid's 115 kV line ends. The co-located Massena-Marcy

¹¹ JP, Appendix B, p. 1.

¹² JP, Appendix B, p. 1.

765 kV line and the M-A 1&2 lines continue in a southwest direction for approximately 6.8 miles within the Town of Madrid, including 1.1 miles within the Sodom State Forest. The Massena-Marcy and M-A 1&2 lines continue southwest through the Town of Potsdam for an additional 4.7 miles, enter the Town of Canton, run southwest through the Town of Canton for approximately 3.6 miles, cross into the Village of Canton on the same route for approximately 0.6 miles and cross the Grasse River.¹³

After crossing the Grasse River, the M-A 1&2 lines run through the center of the SUNY Canton campus. South of the SUNY Canton campus, the M-A 1&2 lines continue to the southwest in the Town of Canton for approximately 0.6 miles, cross Highway 68, then co-locate again with the Massena-Marcy line while running south for approximately 6.9 miles within the Town of Canton, where the co-location with the Massena-Marcy line ROW ends. The M-A 1&2 lines continue in a southwest direction for approximately 0.9 miles in the Town of Canton and then for approximately 1.2 miles in a southwest direction in the Town of Russell. There, the M-A 1&2 lines again co-locate with the Massena-Marcy line ROW and continue in a southerly direction for approximately 4.8 miles within the Town of Russell. As it exits the Town of Russell, the co-located ROW makes a slight shift to the southwest for approximately 0.8 miles, crosses through the southwest corner of the Town of Hermon for approximately 1.4 miles, and then traverses the Town of Edwards for approximately 0.2 miles before the co-location with the Massena-Marcy line ROW ends.¹⁴

The M-A 1&2 lines continue southwest within the Town of Edwards for approximately 4.0 miles before turning southeast

¹³ JP, Appendix B, p. 1.

¹⁴ JP, Appendix B, pp. 1-2.

for approximately 3.9 miles, including approximately 0.2 miles within the Bonner Lake State Forest. The M-A 1&2 lines turn south and then southwest for approximately 0.7 miles as the ROW exits the Town of Edwards, including approximately 0.1 miles within the Cold Spring Brook State Forest on the border of the Town of Edwards and the Town of Pitcairn. The M-A 1&2 lines continue in a southwest direction for approximately 3.2 miles, including approximately 0.4 miles within the Cold Spring Brook State Forest, cross into the Town of Pitcairn and travel west-southwest for approximately 2.3 miles within that town. The M-A 1&2 lines then turn to the south-southeast along the western side of the Adirondack State Park for approximately 0.6 miles and cross State Route 3. At that point, co-location with the Massena-Marcy line ROW begins again and continues for approximately 2.0 miles along the western side of the Adirondack State Park before exiting St. Lawrence County and entering the Town of Diana in Lewis County. The co-located ROW continues for approximately 0.8 miles within the Town of Diana, at which point the co-located ROW stops for approximately 1.2 miles as the M-A 1&2 lines enter the Adirondack State Park.¹⁵

The M-A 1&2 lines ROW crosses through the western edge of the Adirondack State Park for approximately 1.9 miles and, approximately 0.5 miles south of the Adirondack State Park, again co-locates with the Massena-March ROW in the Town of Diana. The co-located ROW continues to the south-southwest for approximately 1.2 miles before crossing into the Frank E. Jadwin Memorial State Forest, where it traverses the State Forest for approximately 1.6 miles within the Town of Diana and approximately 1.4 miles within the Town of Croghan before turning south within the State Forest for approximately an

¹⁵ JP, Appendix B, p. 2.

additional 2.4 miles. To the south of the State Forest, the co-located ROW continues for approximately 3.6 miles, turns southwest for approximately 1.1 miles, and terminates at the Adirondack Substation, which is located on the south side of Effley Falls Road/County Route 10.

Under the JP, the Project would be rebuilt in two phases. The first phase would involve rebuilding approximately 78 miles of single-circuit, predominantly wood pole H-frame structures, originally installed in 1942, with two sets of single-circuit steel monopoles. NYPA also would replace the existing shield wire on the first eight miles of the M-A 1&2 lines with optical ground wire cable. Those facilities would be designed to operate at 345 kV but would be operated at 230 kV until completion of the second phase of the Project.¹⁶ Except for the approximately one-mile portion of the M-A 1&2 lines located on the SUNY Canton Campus, the Project would be constructed entirely within the existing 250-foot ROW described above. On the SUNY Canton campus, the Project would be rerouted to the west, between the western side of the SUNY Canton campus and the existing Messina-Marcy line ROW. SUNY Canton owns the land required for the routing change and has agreed to provide NYPA with a ROW across this State-owned land in exchange for NYPA's release of its existing ROW through the center of the SUNY Canton campus.¹⁷

¹⁶ The JP provides that issuance of a Certificate for the Project would "not prohibit NYPA from continuing to operate and maintain its existing facilities comprising the MA1&2 Lines, the Moses Switchyard and the Adirondack Substation, in accordance with the terms and conditions of its existing repair and maintenance permits issued by NYSDEC and subject to the supervision and control of the Commission, until the facilities are rebuilt as part of the Project." JP, p. 6, ¶12.

¹⁷ JP, Appendix B, pp. 2-3.

Under the JP, the second phase of the Project would involve rebuilding eight miles of existing double-circuit steel lattice structures into the Adirondack Substation with single-circuit steel monopoles, as well as the construction of new 345 kV switchyards at the Moses Switchyard and the Adirondack Substation. Upon completion of the second phase of the Project, which would be coordinated with a similar upgrade of National Grid's Adirondack to Porter 230 kV line to 345 kV, and assuming NYPA requests and is granted an appropriate amendment to the Certificate issued in this proceeding, the M-A 1&2 lines would operate at 345 kV.¹⁸

The estimated cost of the Project is \$668,735,000 in 2018 dollars. The estimated cost is based on the assumption that the first phase of the Project will begin construction in January 2020 and be completed in June 2023.

Other Permits

The JP recognizes the need for a water quality certificate pursuant to Section 401 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act).¹⁹ The JP therefore includes a proposed water quality certificate stating that the transmission facility will comply with the applicable requirements of the Clean Water Act and will not violate any New York State water quality standards and requirements.

NYPA also must obtain, as required, authorization for work performed at state and municipal road and highway crossings, including New York State Department of Transportation highway work and use permits; U.S. Army Corps of Engineers (USACE) permits for construction in federal wetlands affected by

¹⁸ JP, Appendix B, p. 3.

¹⁹ JP, p. 31, ¶79, and Appendix G to the JP.

the facility; a permit pursuant to Section 404 of the Federal Clean Water Act; a permit or approval pursuant to Section 10 of the Rivers and Harbors Act; permits from applicable agencies required for the delivery of oversized components for the Project; and a State Pollutant Discharge Elimination System (SPDES) General Permit.²⁰

DISCUSSION

The JP in this case is supported by four parties that have been active in this proceeding - NYPA, DPS Staff, DEC and DAM. It addresses the statutory and regulatory issues pertaining to NYPA's Certificate request, adequately discusses all probable environmental impacts, and addresses the steps needed to ensure that the Project as proposed represents the minimal adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives and other pertinent considerations. The process provided all interested parties and the public a full opportunity to participate, and the parties adhered to our settlement rules and guidelines.

The process employed provided numerous opportunities for public input. No written public comments have been received. At the public statement hearings on November 28 and 29, 2018 in Croghan, Canton and Massena, New York, everyone who spoke expressed agreement with the need for the Project, with one speaker urging caution that the Project might lead to future developments that might not be good for the area. No opposition to the JP has been raised by the parties to the case who did not sign the JP - the Towns of Canton, Hermon,

²⁰ See, e.g., JP Appendix D, proposed Certificate Conditions 9, 20 and 78.

Louisville, Massena and Norfolk and the Municipal Electric Utilities Association.

After a full review of the record, we find that the JP produces a reasonable result that is in the public interest and consistent with applicable State and Commission policies.

Basis of the Need for the Facility²¹

Based on the information provided in the record, we find that the Project is needed to ensure reliable service throughout New York State. As described in Exhibit E-4 of the Application, the facilities proposed to be rebuilt are more than 76 years old, well past their design lives. Rebuilding the lines would make them less susceptible to failure and would reduce maintenance costs. The lines are needed currently and will be needed in the future to transmit power generated by hydro, renewable and fossil fuel facilities in Canada and Upstate New York. Rebuilding the lines with an increased capacity would provide for future expansion to meet New York's Clean Energy Standard, which will require substantial investment in new renewable generation and associated transmission capacity in Northern New York. In addition, the lines are and will continue to be needed to re-energize the bulk electric system as a component of the NYISO's System Restoration Plan, known as Blackstart, in the event of a future widespread outage.

Probable Environmental Impacts²²

The JP summarizes the nature of the probable environmental impacts as they relate to the following areas: land use, agricultural resources, visual resources, cultural and historic resources, terrestrial ecology and wetlands, protected wildlife and plants, topography and soils, transportation,

²¹ PSL §126(1)(a).

²² PSL §126(1)(b), (c) and (d).

noise, communications, and electric and magnetic fields.²³ We agree with the Signatory Parties that the Project, as proposed under the JP, represents the minimum adverse environmental impact and minimum adverse impact on active farming operations, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.²⁴

Land Use and Agricultural Resources

NYPA proposes to use its existing ROW for the Project, except for an approximate one-mile re-route along the perimeter of and within the SUNY Canton campus. As stated in Application Exhibit 4, the Project would not change the current land use on the ROW and may increase land use by removing approximately half of the existing transmission support structures. Approximately 1.8 miles of the Project is within the Adirondack Park. In the Park the Project would use the existing ROW, increase the span length between structures and thereby decrease the number of structures within the Park.

NYPA would use its existing easements for Project construction and has committed to using existing access roads where feasible. Use of the existing ROW and access easements would avoid adverse impacts to natural resources to the extent practicable. The one mile re-route outside of the existing ROW includes the release of NYPA's current easements that bisect the campus. The re-route would allow SUNY Canton to make greater use of its campus and undertake projects outlined in its development plan.

The Project traverses active agricultural land, three agricultural districts, and approximately 16 miles of cropland,

²³ JP, pp. 9-23.

²⁴ JP, Appendix C, ¶¶5-6.

pasture, and hay fields. NYPA attempted to avoid impacts to active agricultural fields when designing the Project by siting the new transmission structures at the edge of active fields, where possible. When a structure could not be relocated to the edge of the active agricultural field, it was sited in the vicinity of the existing structure. NYPA would attempt to minimize impacts to the agricultural producer (including cropland and field access) at the proposed expansion of the Adirondack Substation. To minimize potential impacts to agricultural resources traversed by the Project, NYPA would adhere to DAM's *Guidelines for Electric Transmission Right-of-Way Projects* and would identify measures designed to minimize impacts to active agricultural land in the EM&CP.

Visual Resources

NYPA conducted a viewshed analysis, field evaluation, and visual simulations to evaluate the Project's impact on visual and aesthetic resources. The results of the analysis, submitted with the Application, indicated that there would be some increased visibility of transmission structures due to the increase in height of the proposed structures.²⁵ However, the overall viewshed would be improved due to reduction in the total number of structures along the ROW.

Potential visual impacts of the Project have been minimized through use of the existing ROW, reduction of the number of structures by approximately fifty percent, the use primarily of monopoles rather than H-frame structures, and the use of non-specular wire. The Project is also adjacent to other

²⁵ According to NYPA's viewshed analysis, although the current structures range in height from 50 feet to 382 feet and the proposed structures would range in height from 55 feet to 255 feet, the proposed structures have an increased potential visibility as compared to the existing structures.

transmission line ROWs for much of its length, further minimizing visual impacts.

The Project crosses a scenic river within the Adirondack Park, the Middle Branch of the Oswegatchie River (the River). Structures would be placed to minimize visibility from the River to the extent practicable. The nearest proposed structure would be located approximately 30 feet further from the mean high-water mark than the nearest existing structure. Also, the proposed monopoles create a less cluttered appearance compared to the existing structures. As a result of structure location and design, the Signatory Parties assert that no significant change or additional impacts to the scenic quality of the River are anticipated due to the reduction in visual clutter and number of structures.

At the request of DPS Staff, NYPA took steps to determine whether shorter structures could be used in certain locations to minimize the visual impacts of the Project. As the use of shorter structures would result in decreased spans and a larger number of structures on the ROW, the Signatory Parties submit, and the Commission agrees, that this generally would not further reduce visual impacts.

Cultural Resources

In consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) and interested, federally recognized Native American Nations, NYPA developed a GIS-based predictive model to identify areas with probability to contain archaeological sites. An archaeological survey, comprised of two phases, was conducted to assess the efficacy of the predictive GIS-based model and to identify any archaeological sites. Eleven National Register of Historic Places (NRHP) listed historic sites/districts were identified within three miles of the proposed ROW in St. Lawrence and Lewis

Counties. The archaeological survey identified Jerden Falls Cemetery as the only archaeological resource that could potentially be affected by the Project. The architectural survey concluded that the Project could potentially affect fourteen resources, with direct impacts possible for the St. Lawrence-FDR Power Project Historic District and the Moses-Adirondack Transmission Line.

To avoid impacts to Jerden Falls Cemetery, NYPA would install fencing around the cemetery's 75-foot buffer prior to construction and maintain it until all construction activities in the vicinity of the cemetery have been completed. OPRHP concurred with NYPA's proposed avoidance buffer in August 2016.

The Project EM&CP would identify mitigation measures with respect to cultural and historic resource impacts, including steps to be taken when archaeological materials are encountered during Project construction. To avoid impacts to cultural and historic resources to the maximum extent practicable, NYPA would adhere to the conditions contained in the Certificate Conditions and all other protective measures identified in the EM&CP.

Terrestrial Ecology and Wetlands

The Proposed ROW is currently maintained in accordance with NYPA's Systemwide Long-Range Transmission Right-of-Way Vegetation Management Plan and Program (SLTRVMP) for the majority of its length. This area is largely in early successional vegetation currently and would continue to be maintained in a similar manner upon completion of the Project. Following construction, the Project ROW would continue to be maintained in accordance with NYPA's SLTRVMP and any additional

requirements for avoidance and minimization of Blanding's Turtles as outlined in the Certificate Conditions.²⁶

Although the proposed ROW width and location were chosen to reduce impacts to the maximum extent practicable, some clearing along the ROW is anticipated. The proposed ROW re-route within the SUNY Canton campus would result in new clearing to a width of 250 feet. Phase Two would require clearing in the northern section of the line; the width of clearing would vary depending upon final structure height. For both phases of the Project, the Applicant anticipates that a total of approximately 85 acres would need to be cleared.

Wetland delineations were completed within and immediately adjacent to the Project area during 2015, 2016, 2017 and 2018. Following the submission of the Application, additional delineations were completed in those areas that could not be delineated prior to filing, including off-ROW access roads. The Project ROW and the proposed access roads traverse 324 wetlands. No wetlands were present within the areas proposed for the new 345 kV switchyard facilities, and therefore construction of the switchyard facilities is not anticipated to have an impact on wetlands. Impacts to wetlands cannot be entirely avoided because of the size and nature of the Project. Permanent impacts are associated with structure foundations in state-regulated wetlands or wetland adjacent areas. The Project's permanent impacts to state-regulated wetlands and wetland adjacent areas are expected to be less than 0.2 acres, each.

The Project's temporary impacts to state-regulated wetlands are associated with temporary construction matting used for work pads and sixteen-foot-wide access roads. Where

²⁶ The Blanding's Turtle is a threatened species in New York State.

existing established gravel access roads occur within wetland adjacent areas, the Applicant may resurface these roads with gravel to improve their condition for construction; however, because these roads already exist, this would not be an impact to wetland adjacent areas.

The Project would result in less than a tenth of an acre of permanent forested wetland conversion impacts within DEC-regulated wetlands due to the clearing of the ROW within the SUNY Canton re-route and minor additional clearing on off-ROW access roads. However, the Applicant would avoid and minimize impacts, to the maximum extent practicable, by adhering to the measures contained in the Certificate Conditions and in the Project's EM&CP. For unavoidable impacts, mitigation is required. A wetland mitigation plan would be filed with the Commission in accordance with the Certificate Conditions.

One hundred and two (102) streams were identified during NYPA's survey, thirty (30) of which are considered "protected" streams (C[T] or higher). NYPA would minimize impacts to protected streams by: minimizing the number of streams crossed by access roads; using existing crossings as much as possible; not placing structures in streams; spanning across streams; and adhering to all other measures identified in the Certificate Conditions and the Project's EM&CP.

In designing the Project, NYPA would restrict ground disturbance in both the 100-foot adjacent areas around state-regulated wetlands, as well as within 50 feet of state-protected streams, by minimizing the placement of transmission structures, access roads, staging areas, and other facilities in these areas, where feasible.

NYPA conducted a survey of invasive species within the Project Area, which included the ROW and expanded areas around SUNY Canton, the Moses Switchyard, and the Adirondack

Substation. The results of this survey were included in the Invasive Species Report submitted as an appendix to Exhibit 4 of the Application. NYPA would prepare an Invasive Species Plan in consultation with DEC, which would ensure compliance with 6 NYCRR Part 575, and would submit such plan with the EM&CP. NYPA would seek DEC's acceptance of such Plan as part of DEC's comments on the EM&CP.

Protected Wildlife and Plants

The New York Natural Heritage Program (NYNHP) identified several Federal and State protected threatened and endangered species in the vicinity of the Project, including the Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Blanding's Turtle (*Emydoidea blandingii*), Eastern Sand Darter (*Ammocrypta pellucida*), Bald Eagle (*Haliaeetus leucocephalus*), Lake Sturgeon (*Acipenser fulvescens*), Eastern Pearlshell (*Margaritifera margaritifera*), Upland Sandpiper (*Bartramia longicauda*), and Iowa Darter (*Etheostoma exile*). Avoidance, minimization, and mitigation measures would be implemented in accordance with the Certificate Conditions and the EM&CP.

The Project is not anticipated to have any impact on the Indiana Bat, Northern Long-eared Bat, Bald Eagle, Upland Sandpiper, or their habitats. Impacts to the Iowa Darter, Eastern Pearlshell, Lake Sturgeon, and the Eastern Sand Darter would be avoided through the implementation of soil erosion and sediment controls and the use of dry stream construction methods, to be included in the EM&CP.

Some Blanding's Turtle habitat would be impacted during Project construction due to the placement of structures and access roads within potential Blanding's turtle nesting habitats and potential and wetland habitats. In addition, depending on the construction methodology and time of year work

is performed, certain limited construction activities may result in the incidental take of individual Blanding's turtles. A full description of the Blanding's Turtle habitat and survey efforts is contained in Application Exhibit 4, Appendix B, Blanding's Turtle Final Report, as well as in the *Blanding's Turtle Avoidance, Protection, and Net Conservation Benefit Plan* to be filed pursuant to the Certificate Conditions. NYPA would adhere to the Blanding's Turtle protective measures identified in the Proposed Certificate Conditions and EM&CP, including the Blanding's Turtle Avoidance, Protection and Net Conservation Benefit Plan. NYPA would comply with the substantive requirements of 6 NYCRR Part 182, including the development of a mitigation plan that demonstrates how NYPA would achieve a Net Conservation Benefit for the Blanding's Turtle, as mutually agreed to by DEC and NYPA. If acceptable to DEC, measures taken to mitigate impacts to Blanding's Turtle wetland habitat could count toward wetland mitigation.

No threatened or endangered plant species were observed on the Proposed ROW or in off-ROW areas. Therefore, no impacts to threatened or endangered plant species are anticipated to occur during construction of the Project. However, the two rare plant species observed in the Project area, Wiry Panic Grass and American Bittersweet, potentially may be impacted during construction. To mitigate any impact, prior to construction, NYPA would have a qualified biologist re-identify the populations in the field and would install fencing and signage around the areas to restrict access during construction.

Topography and Soils

The Project is located between the Champlain Lowlands Section of the St. Lawrence Valley physiographic province and the Adirondack Mountains physiographic province. The

Application identifies potential limitations to development along the Proposed ROW, including a few isolated areas of steep slopes associated with stream and/or river valleys, and isolated areas of rock outcrops within the Frank E. Jadwin Memorial State Forest. These limitations and other topographical considerations would influence structure placement and foundation design but would not have a long-term effect on the integrity of the proposed structures.

Construction and operation of the Project is not expected to result in significant cumulative effects to topographic and soil conditions within the Project area due to the use of a previously disturbed ROW. Minor changes to topography would occur because of grading necessary to prepare work areas and access roads for construction. Those access roads and work areas would be identified in the EM&CP. Measures to minimize disturbing soils and topography along the Project and off-ROW access roads used by the Applicant would be specified in the EM&CP.

Transportation

The impact to transportation is addressed at paragraphs 48 through 52 of the JP and in Exhibit E-6 to the Application. Certificate Conditions 74 through 80 address the use of roads and highways for the Project.

Two airports are located within five miles of the proposed ROW. NYPA does not anticipate any impacts to the Hurlbut Field, which is a private, restricted use airport in the Town of Canton. The proposed ROW passes approximately 1.4 miles north of the public use Massena International-Richards Field Airport (Massena Airport) in the Town of Massena. Because of the proximity of the proposed ROW to the Massena Airport, NYPA conducted an obstruction evaluation pursuant to the Federal Aviation Administration (FAA) criteria set forth in 14 CFR

§77.13. NYPA notes that an FAA Notice of Proposed Construction or Alteration would be required for approximately 115 structures in the proposed ROW, and states that approximately 28 structures within the Massena Airport's "horizontal surface" would be designed to minimize impacts to the airport.²⁷ After the Project design is finalized and set forth in the approved EM&CP, we require NYPA to obtain and provide evidence of the FAA determination that the final design of the structures proposed for the Project will have no impact on the Massena Airport or will have impacts mitigated by modifications to the final design as directed or accepted by the FAA.

The Project ROW crosses three railroad corridors in the Towns of Madrid (owned and operated by New York & Ogdensburg Railway Co.), Canton (owned and operated by CSX Transportation Inc.) and Pitcairn (owned and operated by Mohawk Adirondack & Northern Railroad Corp.), respectively. The Project is not expected to impact the operation of those railroads. The final design for the Project would incorporate appropriate transmission facility design criteria, line clearance requirements, and railroad safety clearances. In addition, NYPA would review the final Project designs and coordinate its construction activities with the railroad companies to ensure that such activities do not conflict with railroad operations and freight movements and to ensure that appropriate railroad safety precautions are implemented.

The Project ROW crosses the St. Lawrence Seaway and the Wiley Dondero Canal, both on the St. Lawrence River. The Project must receive approval under Section 10 of the Rivers and

²⁷ The established airport elevation for the Massena Airport is 221 feet above mean sea level. The Massena Airport horizontal surface is an imaginary horizontal plane that is 150 feet above the established airport elevation and extends outward 10,000 feet in all directions from the runways.

Harbors Act (33 USC §401 et seq.). Under Certificate Condition 9(c), NYPA must provide the Secretary with a copy of the Section 10 approval before commencement of construction across the Seaway and Canal. The Project is not expected to adversely affect the Seaway or Canal.

The Project perpendicularly crosses approximately 66 State, County and local roadways in St. Lawrence and Lewis Counties. During construction, the Project ROW would be accessed from those road crossings. Construction access points from local roads would be located to ensure maintenance of safe traffic operations at the road crossings and to avoid construction vehicles from blocking traffic on public roads. A Maintenance and Protection of Traffic (MPT) Plan would be developed for each location where construction vehicles would access the Project ROW frequently from local roadways, and a safe construction work zone near the edge or within a traffic lane for construction activities within the road ROW would be provided. The MPT Plan traffic control measures would be incorporated into the EM&CP.

To minimize potential conflicts with traffic patterns and lane usage, NYPA would locate transmission structures outside of road and highway rights-of-way. If temporary parking along local roadways is required, NYPA would ensure that all vehicles are parked so that safe operation of the road is not impeded and would provide appropriate safety signage. Construction-related truck traffic would consist of equipment and material deliveries to the structure sites and removal of cleared vegetation and construction debris from the ROW. After final design of the Project, NYPA would submit a Utility Work Permit Application for all applicable road crossings, as required by the New York State Department of Transportation. NYPA would use best management practices to prevent the deposit

of materials onto local roadways and would remove any such materials in a timely manner. All work within state highway rights-of-way would be designed and performed in accordance with applicable traffic and safety standards. NYPA does not anticipate any discernable impact to traffic as a result of Project operation.

Noise

Overhead transmission line construction would generate noise levels that are periodically audible along the Project route, access roads, structure sites, pulling stations, staging areas and laydown yards. In general, noise impacts would be temporary during construction and limited to noise generated by diesel engines, rock drills and jack hammers (if needed) and helicopters,²⁸ which may be used during site and vegetation clearing, foundation form installation, excavation and concrete placement, structure installation and wire stringing.

For residences closest to the ROW, construction sound levels would temporarily exceed ambient levels for short-term periods.²⁹ For the majority of residences further from the ROW, construction noise would be much lower and would generally be below ambient levels. Construction equipment generally is used at a particular pole structure site along the ROW for three to five days, thus limiting the time that noise would have any impact at a particular site. Such temporary construction noise

²⁸ In areas where access is limited, helicopters are used to replace upper structural members, install pulling devices, replace insulators, connect wires and other related tasks. If used, helicopter operations would occur for short periods of time during daytime hours.

²⁹ The residences closest to the transmission lines are located on Edwards Road northwest of the Village of East Pitcairn and are situated approximately 80 to 85 feet from the centerline of the closest transmission line. Exhibit 4 to the Application, Environmental Impacts, p. 97.

also would be mitigated by the attenuating effects of distance, the presence of existing vegetation, the intermittent nature of the noise, presence of buildings (particularly in more suburban areas) and the use of functional mufflers on all construction equipment.

During inclement weather, the Project would emit operational noise that would be noticeable within the ROW due to coronal effects. However, the sound associated with the proposed future operation of the 345 kV lines would be equivalent to that generated by the existing 230 kV lines.

Communications

NYPA's review of Federal Communication Commission (FCC) databases showed 68 FCC registered communications antennas and/or towers within two kilometers (or approximately 1.243 miles) of the Project centerline.³⁰ The Project is not expected to result in any significant adverse effects on radio, television, cellular phone reception, railway signaling and communications, or microwave transmissions during construction or operation. If interference with such communications is reported along the proposed ROW, NYPA would take appropriate action to resolve such issues. NYPA also would test any post-construction effects to determine the effectiveness of mitigation measures and to identify additional potential impacts to communications.

NYPA would comply with applicable provisions of the National Electrical Safety Code related to appropriate spacing between the proposed transmission lines and communication facilities and has designed the transmission lines to minimize

³⁰ Application Exhibit E-5, pp. 2-5.

corona effects.³¹ NYPA would follow the Call Before You Dig protocol and contact potential third-party underground communication cable operators to confirm the locations of any underground communication facilities that would be within or crossed by the ROW. NYPA also would ensure that the locations of communication facilities are accurately depicted on construction drawings and that appropriate clearances and interference protections are verified.

Electric and Magnetic Fields

Electric and magnetic fields are produced by power lines during operation. The EMF Study set forth in Appendix H to Exhibit 4 of the Application analyzed the geometry of the proposed rebuilt M-A 1&2 lines across a sample of seven typical cross sections representing the vast majority of the Project. The EMF study indicates that, when operated at 345 kV, the maximum modeled electric fields and magnetic fields at the edge of the ROW would be within the Commission's guidelines. The maximum electric field produced by the transmission lines at the ROW edge ranged from 0.45 kV/m to 1.42 kV/m for the various cross sections analyzed, well within the 1.6 kV/m maximum electric field at the edge of the ROW established by the Commission. The calculated magnetic field level for the Project ranged from 67.3 mG to 149 mG at the edge of the ROW, below the 200 mG peak field at the edge of the ROW corresponding to the winter-normal conductor rating set by the Commission.

Alternatives

With the exception of the one mile re-route on the SUNY Canton campus, the Project would be constructed along the existing ROW. The Signatory Parties submit, and the Commission

³¹ Corona discharge can adversely impact radio frequency-based systems and results from the breakdown of air within a few centimeters of conductors and hardware.

agrees, that the use of existing ROW is preferable to alternative new routes. Along the existing ROW, NYPA would not be required to purchase additional land or acquire additional easements. Use of the existing ROW avoids the probability of substantial near-term and long-term impacts to the environment, nearby landowners and local communities along any new route.

NYPA would obtain a new easement from SUNY-Canton along the one mile re-route, but in exchange NYPA would release its existing easements, which along with the existing power lines run directly across SUNY Canton's campus. In connection with the route through or around the campus, NYPA considered four alternatives: (1) the overhead route of the existing M-A 1&2 Lines through the campus; (2) underground construction along the same route; (3) a shorter re-route around the campus; and (4) a longer re-route around the campus, and off SUNY Canton property, adjacent to another transmission line. The Commission agrees with the Signatory Parties that the shorter re-route is the preferable alternative. This route avoids the substantial adverse impacts to SUNY Canton's development plans of both the overhead and underground routes across the campus, as well as the substantially higher costs and technical constraints of the underground route. Compared to the longer re-route around the campus, the shorter re-route has a lower cost and a substantially lower environmental impact due to the fact that the longer re-route would cross a substantial amount of wetlands and could impact a protected plant species. It would also cross property for which NYPA does not have existing easement agreements.

The Signatory Parties also examined the possibility of alternative methods to fulfill energy requirements with comparable costs. The Signatory Parties assert, and the Commission agrees, that there are no alternative methods to

provide the increased transmission capability required to support the Clean Energy Standard, or to deliver Blackstart power from NYPA's St. Lawrence-FDR Power Project to other generating facilities in the event of a major blackout.

The Signatory Parties also assert that the "no action" alternative is also not viable because the existing M-A 1&2 Lines are susceptible to failure due to age. The Commission agrees. Failure to rebuild the existing lines would lead to higher maintenance costs and decreased reliability.

Active Farming Operations That Produce Crops, Livestock, and Livestock Products³²

The Signatory Parties propose a Commission finding that the Project represents the minimum adverse environmental impact on active farming operations that produce crops, livestock and livestock products, as defined in Section 301 of the Agriculture and Markets Law, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property.³³ Based on the testimony and other evidence in the record cited by the Signatory Parties, the Commission makes such a finding. Use of the existing ROW would help minimize the impact to active farming operations, and as discussed above, NYPA would locate the new support structures in such a way as to further minimize impact on farming operations. The Certificate Conditions³⁴ contain numerous safeguards designed to protect farming operations that NYPA must follow during and after construction.

³² PSL §126(1)(d).

³³ JP, Appendix C, ¶6.

³⁴ Certificate Conditions 95-118.

Undergrounding/Conformance to Long-Range Plan³⁵

No part of the Project would be located underground. The Signatory Parties maintain that underground construction is not desirable because of physical limits on the length of underground AC transmission lines, the substantial cost to place the transmission lines underground, and the adverse environmental disruption that would result from the underground installation along the existing ROW, which crosses many wetlands and endangered species habitats.³⁶ We agree that undergrounding the Project would have significantly increased costs, environmental and construction impacts, and system operating impacts.

Based on information provided in the record, we find that the Project conforms to the requirements and planning objectives of the NYISO, is consistent with NYPA's long-range plans for the expansion of its transmission facilities and would serve the interests of electric system economy and reliability.

Conformance to State and Local Laws³⁷

PSL §126 requires conformance to the substantive provisions of applicable State laws and regulations issued thereunder. The Signatory Parties assert that the Project, as proposed in the JP, fully complies with the substantive provisions of all applicable State laws.³⁸ We agree and find that, with the terms of the JP, the proposed Certificate

³⁵ PSL §126(1)(e).

³⁶ JP, ¶2; Exhibit 3, pp. 6-7.

³⁷ PSL §126(1)(g).

³⁸ JP, ¶70.

Conditions and the EM&CP in place, the Project would conform to all applicable State laws and regulations.³⁹

The Project also must comply with all substantive local laws and regulations, except that the Commission may refuse to apply any such laws or regulations that, as applied to the Project, the Commission finds to be "unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality."⁴⁰ The Project's proposed ROW crosses through the Towns of Massena, Louisville, Norfolk, Madrid, Potsdam, Canton, Russel, Hermon, Edwards and Pitcairn, and the Village of Canton, in St. Lawrence County, and the Towns of Diana and Croghan in Lewis County.

NYPA states that revised Exhibit 7 to the Application identifies every local law that is applicable or potentially applicable to the Project, every local law for which NYPA seeks a waiver, and provides an explanation as to why particular local laws should be waived as unreasonably restrictive.⁴¹ The JP provides that, with certain exceptions identified in revised Exhibit 7 to the Application, NYPA would comply with all substantive local provisions applicable to the Project.⁴²

NYPA requests that the Commission not apply various local law provisions including, for example, local laws (1) pertaining to noise, odor emission, exterior lighting and vibration, because the impacts from construction are technically

³⁹ Under PSL §130, with certain limited exceptions, procedural requirements to obtain any State or local approval, consent, permit, certificate or other condition for the construction or operation of the Project are inapplicable.

⁴⁰ PSL §126(1)(g).

⁴¹ Revised Exhibit 7, p. 3.

⁴² JP, ¶71.

impossible or impracticable to limit to the levels specified in the ordinances, and mitigation would be accomplished by the Project's use of industry standards that muffle heavy equipment noise and emissions and that suppress the spread of dust and fly ash; (2) prohibiting sign placement near utility poles, because the placement of warning and safety signs is warranted and appropriate to most effectively warn the general public of dangers associated with energized electrical equipment; (3) establishing requirements for lot width, frontage, size, setbacks, depth, storage of equipment or flammable liquids, fencing or screening, clearing, maintenance, grading and landscaping, vegetation retention, site plan review, road crossing, permitted uses, structure location and preservation of scenic vistas, because those requirements are inapposite in light of NYPA's contiguous linear ROW lots; (4) limiting maximum height requirements for structures, because compliance is technologically impossible; (5) requiring that a municipality be granted the right to use NYPA's poles, because such multiple uses are not appropriate for the towers to be used in the Project; (6) restricting permitted uses that do not include electric utilities or that limit the location of electric utility property, on the ground that such requirements would be unreasonably restrictive in view of existing technology and the needs of consumers; (7) requiring shielding or screening requirements and prohibiting cutting existing vegetation or the construction or reconstruction of erosion control structures, on the grounds that those requirements cannot be reconciled with the Clearing and Slash Disposal Procedures to be included in the EM&CP and in NYPA's SLTVRMP; (8) restrictions on the use of large trucks, all-terrain vehicles (ATVs) or other off-highway vehicles, because the use of such vehicles may be needed for the construction or operation of the project, including responding

to electrical emergencies; and (9) restrictions on the use of outdoor privies, because the temporary use of privies may be required during construction and the use of other facilities is cost prohibitive and would unduly delay the Project.⁴³

By obtaining and adhering to a SPDES General Permit for Stormwater Discharge from Construction Activity, NYPA would comply with many local law provisions. However, NYPA requests that the Commission not apply local law requirements to the extent that such requirements conflict with the SPDES General Permit, any Certificate Conditions approved for this Project and any approved EM&CP. NYPA maintains that, although it would take appropriate measures to mitigate erosion and manage stormwaters, it might be technologically impossible to ensure that construction and operation of the Project comply with all the various parameters set forth in different local laws.

We recognize, as NYPA points out, that many of the local laws at issue are not designed to apply to the construction and operation of major electric transmission facilities. Moreover, no local jurisdiction has filed any objection to NYPA's requests that the Commission not apply the specified local laws,⁴⁴ and the Signatory Parties agree that the justifications set forth above and in revised Exhibit 7 provide sufficient grounds for the Commission to refuse to apply the identified local law provisions. We will not apply the local laws identified in revised Exhibit 7 because we find that, as applied to the Project, such requirements are unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality. We further find that

⁴³ JP, ¶72, pp. 27-28; Revised Exhibit 7.

⁴⁴ This includes the Towns of Canton, Hermon, Louisville, Massena and Norfolk, which are parties to this proceeding.

the location of the Project conforms to applicable State and local laws and regulations issued thereunder, except for the local laws and regulations we have refused to apply.

System Impact Study

NYPA submitted an SIS for Phase One of the Project, which the NYISO has approved. That SIS provides that Phase One would not result in any violation of applicable reliability criteria under normal, peak or emergency conditions. The SIS also included steady state, dynamic and short circuit analysis of Phase One of the Project and concluded that it would not adversely impact the reliable operation of the Bulk Power System. When NYPA undertakes Phase Two of the Project, it must submit a SIS for the Project to operate at 345 kV. Accordingly, Certificate Condition 1 requires NYPA to request an amendment of the Certificate prior to operation of the Project at 345 kV and to include a System Impact Study with any such request.

Changes to Project as Proposed in the Application

NYPA states that it has two proposed laydown yards that would be used to support construction activities and material management for the Project.⁴⁵ One laydown yard is in the Town of Louisville near Massena, New York (the Massena Laydown Yard); the other is in Herman, New York (the Herman Laydown Yard). NYPA has a lease agreement with the current owner of the Massena Laydown Yard and owns the Herman Laydown Yard property.

NYPA initially proposed to include the laydown yards in the EM&CP for approval. However, based on NYPA's anticipated construction schedule for the Project, the Signatory Parties now

⁴⁵ Exhibit 25, p. 1, which the Signatory Parties refer to in Appendix A to the Joint Proposal as Exhibit 26 and as Record Exhibit 26 on page 9 of the JP and in Proposed Certificate Condition 31.

propose Certificate Condition 31, which would authorize NYPA to prepare and use the Massena and Herman Laydown Yards prior to approval of the EM&CP. We agree with the Signatory Parties that NYPA's proposed preparation and use of the laydown yards constitutes the minimum adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.⁴⁶

Changes to Proposed Certificate Conditions

We adopt the proposed Certificate Conditions attached as Appendix D to the JP, with two modifications. First, without objection, NYPA has agreed to modify Certificate Condition 1 to clarify that it would operate the Project at 230 kV until it requests and is granted an amendment to operate the Project at 345 kV and that it would include an updated System Impact Study with any such request. Second, the reference in Certificate Condition 31 to "Record Exhibit 26" has been changed to refer to the exhibit numbers designated in rulings admitting evidence issued in this proceeding. Accordingly, Certificate Condition 31 now refers to "Second Revised Record Exhibit 25" rather than to "Record Exhibit 26."

Provisions Not Adopted

With respect to the general provisions set forth in section I of the JP, we note that, for the most part, these are routine terms governing the parties' relationships which we are not required to make any findings about to determine whether a Certificate should be issued. Therefore, except for JP paragraph 5 (relating to dispute resolution), we do not adopt the provisions in JP Section I.

⁴⁶ JP, ¶21, pp. 9-10; Exhibit 25, pp. 1-3.

Conclusion/Public Interest Finding

The basis of the need for the facility and the nature of probable environmental impacts are discussed above. Based on the record developed in this proceeding, and for the reasons discussed above, we find that the Project will be designed, constructed and operated in a manner that avoids or minimizes impacts to environmental resources and represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations. The Project will have no adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in section three hundred one of the New York Agriculture and Markets law. The Project, no part of which will be underground, conforms to the requirements and planning objectives of the New York Independent System Operator and is consistent with NYPA's long-range plan for the expansion of its transmission facilities. The Project will serve the interests of electric system economy and reliability.

The location of the Project conforms to the substantive provisions of applicable state and local laws and regulations issued thereunder, except those local laws and regulations which the Commission refuses to apply because it finds, based on the justifications set forth in Revised Exhibit 7 and the JP, that as applied to the Project, such are unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality. We find that the Project will serve the public interest, convenience and necessity.⁴⁷

⁴⁷ PSL §126(1)(h).

The Commission orders:

1. Except as modified in and to the extent consistent with the discussion in this Order, the terms and provisions of the Joint Proposal attached to this Order are adopted and incorporated into and made a part of this Order.

2. Subject to the conditions adopted in this Order, the Power Authority of State of New York, doing business as the New York Power Authority, is granted a Certificate of Environmental Compatibility and Public Need (Certificate) authorizing it to rebuild its Moses-Adirondack 1 and 2 transmission lines and build new 345 kV switchyards at the existing Robert Moses Switchyard and the Adirondack Substation (the Project), and to operate the Project at 230 kV.

3. The Proposed Certificate Conditions included as Appendix D to the Joint Proposal are approved and incorporated into this Order as modified in accordance with this Order and as set forth in Attachment A.

4. The Water Quality Certification included as Appendix G to the Joint Proposal is authorized to be signed and issued by the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas, and Water of the New York State Department of Public Service.

5. The Power Authority of State of New York, doing business as the New York Power Authority, shall secure and provide to the Secretary prior to commencement of construction evidence of a Federal Aviation Administration (FAA) determination that the final design of the structures proposed for the Project will have no impact or will have impacts mitigated by modifications to such final design as directed or accepted by the FAA with respect to the Massena International-Richards Field Airport.

6. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, include a justification for the extension, and be filed at least one day prior to the affected deadline.

7. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Acting Secretary

ATTACHMENT A

CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

CERTIFICATE CONDITIONS

A. Conditions of the Order

The Commission orders:

1. Subject to the conditions set forth in this Order, the New York Power Authority (“NYPA” or the “Certificate Holder”) is granted a Certificate of Environmental Compatibility and Public Need (the “Certificate”), pursuant to Article VII of the New York Public Service Law (“PSL”), authorizing the Certificate Holder to construct, reconstruct, and maintain approximately 86 miles of electric transmission lines and new 345 kV switchyards at the existing Moses Switchyard and at the Adirondack Substation in Lewis and St. Lawrence Counties, specifically, in the Towns of Massena, Louisville, Norfolk, Madrid, Potsdam, Canton, Russell, Hermon, Edwards, Pitcairn, Diana and Croghan and the Village of Canton (the “Smart Path Project” or the “Project”) and to operate the Project at 230 kV. The Certificate Holder shall request an amendment of this Certificate prior to operation of the Project at 345 kV and shall include a System Impact Study with any such request.
2. The Certificate Holder shall, within thirty (30) days after the issuance of the Certificate, file with the Secretary to the Commission (the “Secretary”) either a petition for rehearing or a verified statement that it accepts and will comply with the Certificate for the Project. Failure of the Certificate Holder to comply with this condition shall invalidate the Certificate.
3. If the Certificate Holder decides not to commence construction of any portion of the Project, it shall so notify the Secretary in writing within thirty (30) days of making such decision and shall serve a copy of such notice upon all parties in the same manner and at the same time as it files with the Secretary.
4. If construction of the Project hereby certified is not commenced within 18 months after the issuance of the Certificate, the Certificate may be vacated by the Commission with notice to the Certificate Holder. Commencement of construction of any segment of the Project, as defined in the Environmental Management & Construction Plan (“EM&CP”), shall satisfy this requirement.
5. Except for the deadlines in Certificate Conditions 2 and 34(h), the Secretary may extend any deadlines established by this Order for good cause shown.

B. Description and Location of Project

6. Appendix B of the Joint Proposal, entitled “Description and Location of Project,” identifies the components of the Project. The proposed location of the Project as set forth in Appendix B is approved.

ATTACHMENT A

CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

C. Laws and Regulations

7.
 - a. Each substantive federal, state, and local law, regulation, code, and ordinance applicable to the Project shall apply, except to the extent that the Commission has expressly refused to apply any substantive local law or regulation as being unreasonably restrictive as discussed herein.
 - b. Except as expressly authorized in these Certificate Conditions, no State or municipal legal provision purporting to require any approval, consent, permit, certificate or other condition for the construction or operation of the Project authorized by the Certificate (collectively, "State or municipal approvals") shall apply, except (i) those of the PSL and regulations and orders adopted thereunder, (ii) those provided by otherwise applicable state law for the protection of employees engaged in the construction and operation of the Project, (iii) those permits issued under federally- delegated or federally-approved environmental permitting programs; and (iv) those municipal approvals expressly authorized in these Certificate Conditions.
 - c. The Certificate Holder shall construct the Project in a manner that conforms to all applicable standards of the American National Standards Institute ("ANSI") including, without limitation, the National Electrical Safety Code ("NESC"), Institute of Electrical and Electronics Engineers ("IEEE"), Standard IEEE C2-2012, 2012 Edition, and any stricter standards adopted by the Certificate Holder. Upon completion of the Project, the Certificate Holder shall send a letter to the Secretary certifying that the Project was constructed in full conformance with the NESC.
8. The Certificate Holder's maintenance of the Project will be in accordance with the Certificate Holder's Systemwide Long-Range Transmission Right-of-Way Vegetation Management Plan and Program ("SLTRVMP"), as it may be amended from time to time.
9.
 - a. The Certificate Holder shall coordinate all work on the Project during construction at state and municipal road and highway crossings with the appropriate state and municipal officials and shall obtain the required authorization for such work, subject to the Commission's continuing jurisdiction as appropriate.
 - b. The Certificate Holder shall coordinate with the appropriate municipal agencies and police departments for traffic management of roads under municipal jurisdiction.
 - c. A copy of each permit or approval received by the Certificate Holder from the issuing agencies, including all necessary United States Army Corps of Engineers ("USACE") permits for construction in Waters of the U.S. affected by the Project pursuant to

ATTACHMENT A

CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

Section 404 of the Federal Clean Water Act and Section 10 of the Rivers and Harbors Act (33 U.S.C. 401 et seq.), and the State Pollutant Discharge Elimination System (“SPDES”) General Permit for Stormwater Discharge from Construction Activity (“SPDES General Permit”), shall be provided to the Secretary by the Certificate Holder promptly after receipt by the Certificate Holder of such permit or approval and before commencement of construction across any affected area.

10. If the Certificate Holder believes that any action taken, or determination made, by a State or municipal agency in connection with this Certificate is unreasonable or unreasonably delayed, it may petition the Commission, upon reasonable notice to that agency, to seek a resolution of any such unreasonable or unreasonably delayed determination. Such agency may respond to the petition, within five (5) business days, to address the reasonableness of any requirement or delay.

D. Public Health and Safety

11. The Certificate Holder shall design, engineer and construct the Project such that operation thereof shall comply with the electric field standard of a maximum of 1.6 kV/m at the edge of the right-of-way (“ROW”), one meter above ground level, with the line at rated voltage as established by the Commission in Opinion No. 78-13, issued June 19, 1978, and with the requirements for magnetic fields established by the Commission in its Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities, issued September 11, 1990.
12. The Certificate Holder shall engineer and construct the Project so as to be fully compatible with the operation and maintenance of nearby electric, gas, telecommunication, water, sewer, and related facilities. Details of such other facilities and measures to protect the integrity, operation, and maintenance of those facilities shall be presented in the EM&CP. The Certificate Holder shall design and construct the Project so as to avoid adverse effects on the cathodic protection system and physical conditions of existing structures and any fuel gas pipelines within the Project ROW and within 25 feet of the edge of the ROW. The Certificate Holder shall provide the details and design measures that will be implemented to protect nearby facilities and structures in the EM&CP.
 - a. The EM&CP shall provide a comprehensive gas safety plan which will discuss the issues listed below:
 - i. crossing method;
 - ii. survey marking;
 - iii. who, how and when construction activities will be limited; and,
 - iv. safety training requirements.

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13. The Certificate Holder shall keep local fire department and emergency management teams apprised of any on-site hazardous chemicals and waste. All such chemicals and waste shall be secured in a locked and controlled area.
14. Certificate Holder shall notify New York State Department of Public Service (“DPS”) Staff and the New York State Department of Environmental Conservation (“NYSDEC”), in accordance with applicable NYSDEC regulations and guidance, if it learns of any fuel or chemical spill.
15. The Certificate Holder shall comply with the requirements for the protection of underground facilities set forth in 16 NYCRR Part 753, entitled “Protection of Underground Facilities.”
16. The Certificate Holder shall take appropriate measures to minimize fugitive dust and airborne debris from Project construction activity. Exposed soils and roadways shall be wetted as needed during extended dry periods to minimize dust generation. To the extent practicable, water for dust control shall come from municipal water supplies/sources. If surface waters are used, equipment (such as intake hoses) used in collecting water for dust control shall be disinfected afterwards.
17. The Certificate Holder shall ensure that parking for Project construction workers shall be in designated areas which do not interfere with normal traffic, cause a safety hazard, or interfere with existing land uses. These parking areas shall be designated in the EM&CP.
18. The Certificate Holder shall avoid direct disturbance to properties by accessing the Project ROW from existing roadways or off-ROW access roads listed in the EM&CP.
19. The Certificate Holder shall implement a Maintenance and Protection of Traffic (“MPT”) plan that identifies procedures to be used to maintain traffic and to provide a safe construction zone for those activities within the roadway ROW. The MPT plans shall address temporary signage, lane closures, placement of temporary barriers, and traffic diversion. The Certificate Holder shall ensure that:
 - a. All signage utilized shall comply with the New York State Department of Transportation (“NYSDOT”) Manual of Uniform Traffic Control Devices. Placement of signs shall be determined in consultation with the jurisdictional agency. At a minimum, signs shall be placed at the following distances:
 - i. Signs announcing construction at 500 feet and 1,000 feet; and
 - ii. Signs depicting workers at 300 feet.
 - b. Flagmen shall be present at all times when equipment is crossing any public road, when equipment is being loaded or unloaded from a vehicle parked on a

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public road, and where two-lane traffic has been reduced to one lane. All flagging operations shall comply with 17 NYCRR Part 131.

20. To the extent required in connection with the delivery of oversized components for the Project, the Certificate Holder or its suppliers shall obtain any required permits from applicable agencies.

E. Environmental Management and Construction Plan

21. The terms of this Certificate and the environmental protection measures contained in the Application shall be incorporated into the EM&CP.

22. A final NYSDEC-approvable Storm Water Pollution Prevention Plan (“SWPPP”) shall be prepared as part of the State Pollutant Discharge Elimination System General Permit for Construction Activities and in accordance with the current New York State Standards and Specifications for Erosion and Sediment Control (“NYSSDESC”). In addition to the general requirements contained in the Blue Book, the SWPPP shall include the following protocols:

- a. To minimize the risk of introducing invasive species, use of hay bales is strictly prohibited; and
- b. All erosion control fabric or netting must be 100% biodegradable natural product, excluding geotextiles used for road construction and temporary erosion control devices such as silt fence and silt sock.

23.

- a. The Certificate Holder shall include the SWPPP and NYSDEC’s letter of acknowledgement for the Project authorized under the SPDES General Permit in the EM&CP. The Certificate Holder shall develop the EM&CP for the Project in accordance with the SWPPP requirements in NYSDEC’s then-effective SPDES General Permit.
- b. The Certificate Holder shall install temporary erosion control devices (e.g., silt fence, straw bales and structural diversions) early in the construction process or by the end of the work day for newly disturbed areas, as indicated in the EM&CP.
- c. Special conditions and erosion and sedimentation controls with respect to the Project shall be prescribed on the EM&CP Plan and Profile drawings.

24. Upon completion of the Project, the Certificate Holder shall conduct its routine vegetation maintenance in accordance with its SLTRVMP.

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25. Applicable provisions of the Certificate, the approved EM&CP, and orders approving the EM&CP shall be accommodated in any design, construction, operation, or maintenance associated with the Project.
26. If the Certificate Holder includes in the EM&CP any environmental protection or mitigation measure(s) not set forth in Exhibit 4, Appendix I, NYPA's Best Management Practices ("EM&CP Best Practices Manual"), the Certificate Holder shall also include with the EM&CP a listing of each such measure, where the Certificate Holder proposes to use such measure, and an explanation as to why the Certificate Holder selected that measure rather than a measure included in its EM&CP Best Practices Manual.
27. The Certificate Holder, in preparing the EM&CP, shall consult with each transportation department or agency normally having jurisdiction over any roads in the vicinity of the Project, which roads will be crossed by the certified transmission facilities or used for direct access to the Project ROW. If the access road takes direct access from, or lies within the limits of, such roads, the Certificate Holder shall notify each relevant transportation department or agency of the approximate date when work on the Project will begin.
28. Before the preparation of the EM&CP, the Certificate Holder shall contact the NYSDEC, NYS Natural Heritage Program and United States Fish and Wildlife Service to check for any updates or changes of known species of special concern threatened or endangered ("T&E") species or habitat of Significant Natural Communities in the Project area and include the responses in the EM&CP.
29. The Certificate Holder shall provide, as a part of the EM&CP:
 - a. A final design plan that conforms with the Project design set forth in the Certificate, applicable federal, state and local requirements, including, but not limited to, applicable regulations promulgated by NYSDEC, the New York State Office of Parks, Recreation & Historic Preservation ("OPRHP"), the New York State Department of Agriculture & Markets ("NYSDAM"), the Commission, the Bureau of Alcohol, Tobacco and Firearms, the Occupational Safety and Health Administration, the NYS Department of Labor, and local government chemical and waste-storage use and handling regulations; and
 - b. A discussion of the status of efforts by the Certificate Holder to obtain permits necessary for construction of the Project from Federal agencies (such as the USACE) and State agencies with federally-delegated authority.
 - c. The URL address for the Certificate Holder's website containing Project information.

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30. The Certificate Holder may construct the Project in a manner that deviates from the certificated centerline, design height, location, number of structures, and structure types specified in Appendix B for appropriate environmental or engineering reasons, except where a conflict with a provision of the Certificate would be created. When proposing any such deviation, the Certificate Holder shall include in the EM&CP an explanation for the proposed deviation and supporting documentation.
31. The Certificate Holder shall not begin site preparation or construction (except for surveying, soils testing, and such other related activities as are necessary for preparation of the final design plans), nor shall it commence any proceedings under the Eminent Domain Procedure Law to acquire permanent ROW, temporary ROW, or off-ROW access until the Commission has approved the EM&CP. To calculate the three-year period for acquisition of property pursuant to the Eminent Domain Procedure Law, the date of Commission approval of the EM&CP covering the affected parcel shall be regarded as the date on which this Article VII proceeding was completed. Notwithstanding the foregoing provisions of this paragraph, NYPA is hereby authorized upon approval of these Certificate Conditions by the Commission to: (1) prepare the laydown yards described in Second Revised Record Exhibit 25 (referred to in Appendix A to the Joint Proposal as Exhibit 26) for use as laydown yards for the Project, and to use them for such purpose; and (2) erect any exclusionary fencing required to work in Blanding's turtle habitat in accordance with the Certificate Condition 89.
32. The Certificate Holder shall file the proposed EM&CP with the Commission in the manner directed by the Secretary and, unless otherwise directed by the Secretary, shall serve it as follows: two electronic copies on the staff of the NYSDEC Central Office in Albany; one electronic copy and one hard copy on the Region 6 office of the NYSDEC; one electronic copy on the staff of NYSDAM; one electronic copy on the Region 7 office of the NYSDOT; one electronic copy on any other New York State agency (and its relevant regional offices) that requests the document; and one searchable electronic copy on the active parties on the service list who request the document. Service upon State agencies shall be performed at or prior to the time of filing with the Secretary. The Certificate Holder shall also place one hard copy and one electronic copy for inspection by the public at the same public library or libraries where the Application has been made available.
33. Contemporaneously with filing and serving the proposed EM&CP, the Certificate Holder shall disseminate, in the manner specified below, a written notice, in language reasonably understandable to the average person, that the proposed EM&CP has been filed (the "EM&CP Filing Notice").
 - a. Certificate Holder shall serve a copy of the EM&CP Filing Notice on all parties to this proceeding (except those upon whom the foregoing paragraph requires the Certificate Holder to serve one or more copies of the proposed EM&CP), on

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all persons required to be served with the Application by statute or regulation, and on all persons from whom property rights are required.

- b. The Certificate Holder shall include a copy of the EM&CP Filing Notice in the proposed EM&CP.
 - c. The Certificate Holder shall publish a copy of the EM&CP Filing Notice in a newspaper or newspapers of general circulation in the vicinity of the Project.
34. The EM&CP Filing Notice required for the proposed EM&CP shall contain, at a minimum, the following:
- a. a statement that the proposed EM&CP has been filed;
 - b. a general description of the certified Project, the need for the Project, and the proposed EM&CP;
 - c. the EM&CP Filing Notice served on identified persons with a record interest in property to be acquired, as described in the proposed EM&CP, shall be accompanied by a description of the type of property rights required for the Project with respect to such property;
 - d. a listing of the locations and the website URL(s) where the proposed EM&CP is available for public inspection;
 - e. a statement that any person desiring additional information about a specific geographical location or specific subject may request it from the Certificate Holder;
 - f. the name, address, toll-free telephone number, and telephone number of an appropriate representative of the Certificate Holder;
 - g. the e-mail address and postal address of the Secretary; and
 - h. a statement that any person may be heard by the Commission on any matter or objection regarding the proposed EM&CP by filing written comments with the Secretary and the Certificate Holder within 30 days of the date the proposed EM&CP was filed with the Commission, or within 30 days of the date of the newspaper publication of a copy of the EM&CP Filing Notice, whichever is later.
35. A certificate of service indicating upon whom all copies of the EM&CP Filing Notice were served shall be filed by the Certificate Holder with the Secretary within three (3) business days after the time the proposed EM&CP is filed, and shall be a condition precedent to approval of the proposed EM&CP. When available, proof of newspaper

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publication of a copy of the EM&CP Filing Notice, including a copy of such notice, shall be filed with the Secretary.

36. After the EM&CP has been approved by the Commission:
 - a. If the Certificate Holder desires to make any changes to the approved EM&CP, the Certificate Holder shall report such proposed changes to DPS Staff. DPS Staff will refer any proposed changes that will not result in substantial increase in adverse environmental impact or are not directly related to contested issues decided by the Administrative Law Judge or the Commission during the proceeding to the Chief of the Environmental Certification and Compliance Section for approval. DPS Staff will refer all other proposed changes to the Commission for approval.
 - b. Upon being advised that DPS Staff will refer a proposed change to the Commission, the Certificate Holder shall notify all parties to the proceeding, as well as property owners and lessees whose property is affected by the proposed change. The notice shall: (1) describe the original conditions and the requested change; (2) state that documents supporting the request are available for inspection at specified locations; and (3) state that persons may comment by writing or calling (followed by written confirmation) to the Commission within twenty-one (21) days of the notification date. Any delay in receipt of written confirmation will not delay Commission action on the proposed change.
 - c. The Certificate Holder shall not execute any proposed change until the Certificate Holder has received oral or written approval, except in emergency situations threatening personal injury, property, or severe adverse environmental impact. Any oral approval from DPS Staff will be followed by written approval from the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas and Water or the Commission.

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F. Notices and Public Complaints

37.

- a. Until notice of Project completion is provided to the Secretary as provided in Certificate Condition 7(c), the Certificate Holder shall make available to the public a toll-free or local phone number of an agent or employee who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project. That number shall include a recorded outgoing message that will, when a call is not answered by a person, provide the caller with the name of the Certificate Holder's representative as well as: (i) the number to be called at any time in case of emergency; (ii) the phone number and email address of the Secretary; and (iii) the phone number of the DPS Environmental Certification and Compliance Section in the Office of Electric, Gas and Water.
- b. The Certificate Holder's Project website shall provide a means for the public to register complaints, ask questions, etc., either through a direct link to a complaint form/email or by providing the contact information (phone and/or email address) of an agent of the Certificate Holder that can address the public's concerns.
- c. The Certificate Holder shall report to the DPS Environmental Certification and Compliance Section Compliance Staff every complaint it receives that cannot be resolved within ten (10) business days after receipt of the complaint.

38.

- a. At least two (2) weeks before commencing Project construction activities, the Certificate Holder shall notify the public of the anticipated date that construction will commence, as follows:
 - i. provide notice to local officials and emergency personnel along the entire Project route;
 - ii. provide notice to local media for dissemination;
 - iii. provide notice for display in public places (such as general stores, post offices, community centers, and conspicuous community bulletin boards); and
 - iv. provide notice to persons who own properties that are crossed by or abut the ROW, and persons who reside on such properties (if different from the owner).

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- b. The Certificate Holder shall write the notice or notices under this paragraph in language reasonably understandable to the average person and shall ensure that the notice or notices contain:
 - i. a map of the Project;
 - ii. a brief description of the Project;
 - iii. the anticipated date for start of site preparation;
 - iv. the name, mailing address, local or toll-free telephone number, and email address of an employee or agent of the Certificate Holder who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project; and,
 - v. a statement that the Project is under the jurisdiction of the New York State Public Service Commission, which is responsible for enforcing compliance with environmental and construction conditions, and which may be contacted at an address, email, and telephone number to be provided in the notice.
 - c. Upon distribution, a copy of the form of the notice or notices under this paragraph shall be submitted to the Secretary by the Certificate Holder.
 - d. The Certificate Holder shall notify persons who own properties that are crossed by or abut the ROW, and persons who reside on such properties (if different from the owner), of the planned transmission line construction activities and schedule affecting their residences at least seven (7) days, but no more than thirty (30) days, prior to the commencement of such construction. The Certificate Holder shall give notice by direct mail and may affix such notice to the doors of residences. After such notices are given, and prior to the commencement of such construction, the Certificate Holder shall provide a copy of the generic form of such notice to the Secretary.
39. The Certificate Holder shall provide all contractors providing services for construction for the Project (“Contractors”) with complete copies of the Certificate, the approved EM&CP, the order(s) approving the EM&CP, updated construction drawings, any site-specific plans, NYSDEC’s then-current SPDES General Permit, any permit issued pursuant to Section 404 of the Federal Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Section 401 Water Quality Certification. To the extent that the listed documents are available before contracts for construction services are executed, such copies shall be provided by the Certificate Holder to its Contractors prior to the execution of such contracts.

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40. The Certificate Holder shall notify its Contractors that the Commission may seek to recover penalties for any violation of the Certificate and other orders issued in this proceeding, not only from the Certificate Holder, but also from its Contractors and that Contractors also may be liable for other fines, penalties, and environmental damage.
41. The Certificate Holder shall inform the Secretary in writing at least five (5) days before commencing construction for the Project.
42. Each month after providing notice specified in the preceding paragraph, the Certificate Holder shall provide DPS Staff, NYSDAM, and NYSDEC with monthly status reports summarizing construction and indicating construction activities and locations including NYSDEC-regulated wetlands, adjacent areas, and streams scheduled for the next month.
43. Within ten (10) days after each line of the Project is in service, the Certificate Holder shall notify the Secretary in writing of that fact.
44. The Certificate Holder, within ten (10) days of the completion of final restoration, shall notify the Secretary that all such restoration has been completed in compliance with this Certificate and the Order(s) approving the EM&CP.

G. ROW Construction, Operation, Maintenance and Restoration

45.
 - a. At least two (2) weeks prior to the start of construction, the Certificate Holder shall hold a preconstruction meeting to which it shall invite DPS Staff, NYSDEC, NYSDAM and NYSDOT. An agenda, the location, and an attendee list shall be agreed upon between DPS Staff and the Certificate Holder. Notification to the invitees of the meeting shall be at least 10 days prior to the meeting date.
 - b. The Certificate Holder shall supply draft minutes from this meeting to all attendees and invitees, the attendees may offer corrections or comments, and thereafter Certificate Holder shall issue the finalized meeting minutes to all attendees and invitees.
 - c. If, for any reason, the Contractors cannot finish the construction of the Project, and one or more new construction contractors are needed, the Certificate Holder shall hold another preconstruction meeting with the same format as outlined above.
46. The Certificate Holder shall confine construction and subsequent maintenance for the Project to the certified ROW and approved additional work areas as detailed in the approved EM&CP.

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47. At least two (2) weeks before Project construction begins in any area, the Certificate Holder shall cause both edges of the Project ROW to be delineated in such area, and any known danger trees to be removed in such area will be marked for review and acceptance by DPS Staff within two weeks. Also, the Certificate Holder shall stake and/or flag all on- or off-ROW access roads and other areas needed for such construction, such as structure work areas and laydown and storage areas.
48. The Certificate Holder shall schedule construction activities on the Project to occur between the hours of 7:00 a.m. through 7:00 p.m. Monday through Saturday. If, due to safety or continuous operation requirements, such construction activities are required to occur on a Sunday or after 7:00 p.m., the Certificate Holder, after consultation with the affected municipality, shall seek approval from DPS Staff. Such approval shall be requested at least 24 hours in advance unless the Sunday or after 7:00 p.m. construction activities are required for safety reasons that arise less than 24 hours in advance.
49. Construction shall not commence in any segment of the Project until the real property rights necessary to construct and operate at least 70% of the length of the portion of the Project on such segment are obtained. All segments shall be identified in the EM&CP. The Certificate Holder shall provide a detailed construction schedule to DPS Staff prior to its construction in any segment, together with evidence of such property rights.
50. In connection with ROW vegetation clearing, the Certificate Holder shall:
 - a. comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and Section 9-1303 of the New York State Environmental Conservation Law (“ECL”) and any quarantine orders issued thereunder;
 - b. note on the EM&CP drawings the clearing and disposal techniques;
 - c. not create a maximum wood chip depth greater than three (3) inches, except for chip roads or invasive species control, nor store or dispose chips in wetlands, within stream banks or floodways or agricultural lands;
 - d. utilize the wood resource generated by the clearing in accordance with sound environmental techniques;
 - e. leave stumps in place within 50 feet of streams unless construction of an access road or work pad necessitates removal. Trees shall not be felled into any stream or onto the immediate stream bank; and
 - f. limit clearing of natural vegetation to that material which poses a hazard or hindrance to the construction activity. Snags which provide shelter in streams for fish shall not be disturbed unless they cause serious obstructions, scouring or

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erosion. Trees shall not be felled into any stream or onto the immediate stream bank.

51. The Certificate Holder shall, as part of its purchasing of new ROW and/or danger tree rights, negotiate in good faith with each landowner the purchase of rights to all logs over six (6) inches in diameter at the small end and eight (8) feet or longer (“Merchantable Logs”); the Certificate Holder’s removal of the Merchantable Logs resulting from clearing the Project ROW will be to an off-ROW location(s) and Certificate Holder will provide notice of the location(s) to be included in the EM&CP.
52. The Certificate Holder shall include in the EM&CP a plan for removal, reuse, recycling, and disposal of all existing equipment (e.g., transformers, wood poles, conductors, etc.). The Certificate Holder shall remove from the ROW to appropriate destinations and handle, in accordance with the EM&CP, existing transmission facility equipment that it or its Contractor removes or replaces as part of the Certificate Holder’s work on the Project.
53. The Certificate Holder shall not construct, nor allow any Contractor in its employ to construct, any new access road or improve or use any existing access road, unless such road is shown in the EM&CP. Should the Certificate Holder need additional access, it shall follow the procedures recited in Certificate Condition 36.
54. The Certificate Holder shall restore disturbed construction areas to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations unless the EM&CP specifies otherwise. Disturbed pavement, curbs, and sidewalks shall be restored to their original preconstruction condition or improved.
55. The Certificate Holder shall be responsible for checking all culverts and assuring that they are not crushed, blocked, or otherwise damaged during construction and restoration of the Project. If a culvert is crushed, blocked or otherwise damaged during construction or restoration of the Project, Certificate Holder shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage. Culvert repairs or replacements shall follow specifications in the EM&CP.
56. The Certificate Holder shall, upon completion of the Project:
 - a. conduct an assessment of the need for landscape restoration, including vegetation planting, earthwork or installed features to landscape the Project with respect to public road crossings, residential areas, and substations;
 - b. prepare plans for any visual mitigation found necessary, and, in connection therewith, removal, rearrangement and supplementation of existing landscape improvements or plantings should be considered, as appropriate;

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- c. consult with DPS Staff on content and execution of its assessment, resultant landscaping plan specifications and materials list; details shall include measures for third party or wildlife damage to any landscape and vegetation plantings; and
 - d. present draft assessments and plans to DPS Staff for review and file a final plan with the Secretary within one (1) year after the date each phase of the Project is placed in service; each plan will be limited to the area impacted by the relevant phase.
57. Unless described otherwise in the EM&CP, all trees over four (4) inches in diameter (measured four feet above ground) or shrubs over four feet in height damaged or destroyed by the Certificate Holder's activities during construction, regardless of where located, shall be replaced by the Certificate Holder with equivalent-type trees or shrubs, subject to the provisions of 6 NYCRR Part 575, *Prohibited and Regulated Invasive Species*, except where:
- a. the approved EM&CP permits otherwise;
 - b. equivalent-type replacement trees or shrubs would interfere with the proper clearing, construction, operation, or maintenance of the Project;
 - c. replacement would be contrary to sound ROW management practices or to the Certificate Holder's SLTRVMP; or
 - d. a property owner or other recorded easement or license holder with the right to control replacement declines replacement (other than the Certificate Holder) on whose land the damaged or destroyed trees or shrubs were located declines replacement.
58. The Certificate Holder shall ensure that the EM&CP shall: (a) identify plans for tree protection; and (b) indicate on the drawings where tree protection measures will be applied (if any are known at the time of EM&CP preparation).
59. The Certificate Holder shall include plans in the EM&CP to prevent unauthorized access to and along the ROW, which plans shall include the following:
- a. posting signs at the edges of the Project ROW in those locations where the Project ROW intersects public roads;
 - b. performing outreach to educate and inform the public concerning the risks and impacts of unauthorized access;
 - c. working with local law enforcement officials in an effort to prevent future trespassing;

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- d. identifying construction and material details of gates and berms, if any; and
 - e. final determination of locations of gates and berms shall be made during a post-construction assessment of the Project, in consultation with DPS Staff.
60. Prior to restoration within a given area of the Project, the Certificate Holder shall thoroughly clear the areas of the ROW and work areas where construction occurred of debris related to electric line construction or removal, such as nuts, bolts, spikes, wire, and pieces of steel. All construction debris (e.g., building materials, excess sediment, and work site refuse) generated by the Project shall be completely removed prior to completion of restoration of wetlands, adjacent areas, waterbodies, floodplains and floodways. Construction debris shall be properly disposed of at a permitted waste disposal facility authorized to receive such material.

H. Herbicide Use During Construction

61. If the Certificate Holder applies herbicides on the Project, it shall do so only under the direct supervision of a NYS Certified Applicator who shall own or be employed by a New York State-registered business. The supervising certified applicator shall be familiar with and understand the provisions of this Certificate and shall be present in the field to ensure that the Certificate Holder's application of herbicides complies with its SLTRVMP and the Certificate.
62. If the Certificate Holder applies herbicides on the Project, it shall ensure that all herbicides it uses have valid registrations under applicable state and federal laws and regulations. If the Certificate Holder desires a change to the herbicides specified in the EM&CP for use during construction of the Project, including mix proportions, additives (with the exception of dyes), or method of application, the Certificate Holder shall submit the proposed change for approval pursuant to Certificate Condition 36 of this Certificate. No change inconsistent with the pesticide labeling shall be proposed.
63. If the Certificate Holder applies herbicides on the Project, it shall apply such herbicides only in conformity with all label instructions and all applicable state and federal laws and regulations. It shall apply herbicides in compliance with its SLTRVMP and the Certificate. It shall ensure that its applicators reference maps which indicate treatment areas, and wetland and adjacent area boundaries, prior to treating. It shall ensure that applications required in seasonally flooded freshwater wetlands are undertaken during a dry season.
64. If the Certificate Holder applies herbicides on the Project, it shall ensure that its application of herbicides within wetlands and the 100-foot adjacent areas associated with State-regulated wetlands shall be performed only by backpack treatment or squirt bottle method.

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65. If the Certificate Holder applies herbicides on the Project during or in preparation of construction on agricultural lands (including pastures and farmsteads):
- a. The Certificate Holder shall ensure that, in doing so, it does not allow equipment wash water or excess herbicide to enter wetlands, streams or waterbodies.
 - b. The Certificate Holder's agriculture inspector (as defined in Certificate Condition 95) shall be involved with the notification to the agricultural producer providing ample time to provide livestock segregation practices from the proposed herbicide affected areas. If the agricultural producer is unable to move to livestock to unaffected secluded pasture(s), the Certificate Holder will be responsible to provide, install and maintain temporary fencing (as approved by the agriculture producer) for the duration of the applicable herbicide label's grazing restrictions for the applicable type of livestock. Likewise, the applicable herbicide label's crop restrictions should be clearly communicated with the agriculture producer for their knowledge of when to harvest the applicable crop.
 - c. If the Certificate Holder proposes to apply herbicides during or in preparation of construction on agricultural lands operated under or in pursuit of the National Organic Program according to 7 CFR Part 205, the Certificate Holder shall determine the location of such organic producers, and determine the Certificate Holder's rights to apply herbicides on leased lands, and provide notification of the intended application providing ample time for the organic producer's preparation required defined boundaries and buffer zones as describe in 7 CFR Part 205.

I. Oversight and Supervision

- 66.
- a. The Certificate Holder shall use an inspector or inspectors during construction for Project oversight. Inspector(s) may be used to act for multiple inspection roles as long as such inspector(s) are qualified; including the environmental inspector, the agricultural inspector, and the inspector for invasive species control measures.
 - b. There shall also be a construction supervisor employed full-time on the Project; along with at least one safety inspector who will inspect the work site from time to time; and at least one quality assurance inspector who will inspect the work site from time to time. Inspectors shall also be responsible for or oversee periodic safety inspections of the work site, thereby fulfilling the role of safety inspector. In addition, the quality assurance inspector may also fulfill the inspection requirements under the Certificate.
- 67.
- a. During periods of relative inactivity on the Project, after consultation with and acceptance from DPS Staff, the Certificate Holder may temporarily decrease the

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number of hours worked by inspectors and the extent of their presence at the Project site commensurate with the decline in Project activity; likewise, during periods of relatively high activity on the Project, the number of inspectors and the extent of their presence at the Project site may temporarily increase commensurate with the increase in Project activity. The Certificate Holder shall ensure that the frequency of inspections by the environmental inspector shall comply with the requirements of the SPDES General Permit.

- b. The environmental inspector shall have stop work authority over all aspects of the Project.
 - c. The Certificate Holder shall provide to DPS Staff, NYSDAM and NYSDEC the cell phone numbers of the Certificate Holder's environmental inspector and construction supervisor.
 - d. The Certificate Holder shall ensure that its environmental inspector, the agricultural inspector and construction supervisor are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor Certificate Holder's Contractor's compliance with the provisions of every Order issued in this proceeding with respect to Project and to those sections of the PSL, ECL, Section 401 Water Quality Certification, and the EM&CP.
68. The Certificate Holder shall ensure that the names and qualifications of its environmental inspector, agricultural inspector and construction supervisor are submitted to DPS Staff at least two (2) weeks prior to the start of construction of the Project. The Certificate Holder shall ensure that its environmental inspector's qualifications satisfy those of a "Qualified Inspector" pursuant to the SPDES General Permit.
69. The Certificate Holder's employees, contractors and subcontractors assigned to the construction of the Project and inspection of such construction work shall be properly trained in their respective responsibilities.
70. The authority granted in the Certificate and any subsequent order(s) in this proceeding is subject to the following conditions necessary to ensure compliance with such order(s):
- a. The Certificate Holder shall regard DPS Staff representatives (authorized pursuant to PSL §8) as the Commission's designated representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the Certificate or any other order in this proceeding, such DPS Staff representatives may issue a stop work order for that location or activity.

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- b. A DPS Staff stop work order shall expire twenty-four (24) hours after issued unless confirmed by a single Commissioner. DPS Staff shall give the Certificate Holder notice by electronic mail of any application to a Commissioner to have a stop work order confirmed. If a stop work order is confirmed, the Certificate Holder may seek reconsideration from the confirming Commissioner or the whole Commission. If the emergency prompting the issuance of a stop work order is resolved to the satisfaction of the Commissioner or the Commission, the stop work order will be lifted. If the emergency has not been satisfactorily resolved, the stop work order will remain in effect.
- c. Stop work authority will be exercised sparingly and with due regard to potential environmental impact, economic costs involved, possible impact on construction activities, and whether an applicable statute or regulation is violated. Before exercising such authority, DPS Staff representatives will consult (wherever practicable) with the Certificate Holder's representative(s) possessing comparable authority. Within reasonable time constraints, all attempts will be made to address any issue and resolve any dispute in the field. In the event the dispute cannot be resolved, the matter will be brought immediately to the attention of the Certificate Holder's Project Manager(s) and the Director of the Department of Public Service Office of Electric Gas & Water. In the event that a DPS Staff representative issues a stop work order, neither the Certificate Holder nor the Contractor will be prevented from undertaking any safety-related activities as they deem necessary and appropriate under the circumstances. The issuance of a stop work order or the implementation of measures as described below may be directed at the sole discretion of the DPS Staff representative during these discussions.
- d. If a DPS Staff representative discovers a specific activity that represents a significant environmental threat that is, or immediately may become, a violation of the Certificate or any other Order in this proceeding, the DPS Staff representative may -- in the absence of the Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative, refuse to take appropriate action -- direct the field crews to stop the specific potentially harmful activity immediately. If the Certificate Holder personnel are not on site, the DPS Staff representative will immediately thereafter inform the Certificate Holder's construction supervisor(s) and/or environmental inspector(s) of the action taken. The stop work order may be lifted by the DPS Staff Representative if the situation prompting its issuance is resolved.
- e. If the DPS Staff representative determines that a significant threat exists such that protection of the public or the environment at a particular location requires the immediate implementation of specific measures, the DPS Staff representative may, in the absence of the Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative,

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refuse to take appropriate action, direct the Certificate Holder or the relevant Contractors to implement the corrective measures identified in the approved EM&CP. The field crews shall comply with the DPS Staff representative's directive immediately. The DPS Staff representative will immediately thereafter inform the Certificate Holder's construction supervisor(s) and/or environmental inspector(s) of the action taken.

- f. The Certificate Holder will promptly notify DPS Staff and the NYSDEC of any activity that involves a violation of the Certificate.
71. The Certificate Holder shall organize and conduct site-compliance inspections for DPS Staff as needed during construction of the Project, but such inspections shall be conducted no less frequently than once per month during the site preparation, construction, and restoration phases of the Project. Inspections shall conclude upon the final sign-off of the SWPPP by the SWPPP inspector.
- a. The monthly inspection shall include a review of the status of compliance with all conditions contained in the Certificate and any other Order issued in this proceeding, other legal requirements and commitments, as well as a field review of the Project site, if necessary. The inspection also may include:
 - i. Review of all complaints received, and their proposed or actual resolutions;
 - ii. Review of any significant comments, concerns, or suggestions made by the public, local governments, or other agencies and indicate how the Certificate Holder has responded to the public, local governments, or other agencies;
 - iii. Review of the status of the Project in relation to the overall schedule established prior to the commencement of construction; and
 - iv. Other items the Certificate Holder or DPS Staff consider appropriate.
 - b. The Certificate Holder shall provide a written record of the results of the inspection, including resolution of issues and additional measures to be taken, to agencies involved in the inspection audit or requesting copies of the written record at the pre-construction meeting.
72. The Certificate Holder shall ensure that the required safety rules and regulations are communicated to site inspectors in a documented tailboard meeting prior to entry onto the site for work on the Project. Site inspectors are responsible for interpreting these rules for their non-English speaking and reading-impaired employees. Once a site inspector has received the Safety Awareness training session, he or she is authorized to visit that site for which the training was held. A separate training session is required for each jobsite.

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73. The Certificate Holder may require site inspectors to supply their own personal protective equipment for any tours of construction sites. This shall include a properly fitted, currently valid, hardhat, safety glasses with side shields, and steel or ceramic-toed boots at any time while on site, unless the visitor is in a vehicle or in a construction trailer.

J. Roads and Highways

74. The Certificate Holder shall delineate on the EM&CP drawings the locations of proposed temporary access roads, proposed permanent access roads, and existing access roads. The Certificate Holder shall ensure that proposed access road improvements and measures for environmental impact minimization and access control are included in the EM&CP.

75. The Certificate Holder shall minimize the impact of Project construction on traffic circulation. The Certificate Holder shall ensure that traffic control personnel and safety signage are employed to ensure safe and adequate traffic flow when roadways are affected by Project construction.

76. The Certificate Holder shall consult periodically as necessary with municipal highway transportation agencies about traffic conditions near the site of work on the Project and shall notify each such transportation agency of the approximate date work will begin in its jurisdiction, using access points that take direct access from the highways in that jurisdiction for the Project.

77. NYSDOT shall have authority to place inspectors on-site to monitor and observe the Certificate Holder's activities on state highways, and/or to request the presence of state or local police to assure the safety of freeway travelers, at such times and for such periods as NYSDOT deems appropriate. All costs thereof shall be borne by the Certificate Holder.

78. The Certificate Holder shall coordinate all State Highway crossings and longitudinal occupations with NYSDOT. The Certificate Holder shall obtain the necessary permits from NYSDOT, including, as appropriate, a Highway Work Permit and Use and Occupancy Permit pursuant to 17 NYCRR Part 131, including, if necessary, the filing by NYSDOT of a request with the Federal Highway Administration for an exception to the Accommodation Plan for Longitudinal Use of Freeway Right-of-Way by Utilities, for the construction, operation and maintenance of the Project in the ROW of State highways. Said Use and Occupancy Permit shall include payment of a fair market value-based fee for use of State property.

79. The Certificate Holder shall coordinate with DPS Staff and NYSDOT for all work to be performed in the State highway ROWs. Prior to submitting the construction plan for any State highway ROW segment of the Project, the Certificate Holder shall provide to DPS Staff and NYSDOT a preliminary design marked to avoid conflict with potential future transportation projects that NYSDOT may seek to undertake in the future and shall offer

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to consult with NYSDOT concerning any comments it may offer and shall use reasonable efforts to accommodate any NYSDOT concerns.

80. The Certificate Holder shall ensure that:
- a. all work within State highway ROWs shall be designed and performed according to the traffic and safety standards and other substantive requirements contained in 17 NYCRR Part 131, entitled *Accommodation of Utilities Within State Highway Right-of-Way* and applicable design standards required by law or governmental regulation; and
 - b. the EM&CP for street work, if any, provides details, including provisions for minimizing the duration and extent of open excavation, traffic disruptions, and work within adjoining public streets and ROW.

K. Cultural Resources

81. The Certificate Holder shall ensure that no construction is undertaken in previously undisturbed areas where archaeological surveys have not been completed until such time as the appropriate authorities, including OPRHP and DPS Staff, have reviewed the results of any additional historic properties and archeological surveys that are required.
82. The Certificate Holder shall ensure that, should archaeological materials be encountered during construction, the Certificate Holder shall stabilize the area and cease all ground-disturbing activities in the immediate vicinity of the find and protect the find from further damage. Within twenty-four (24) hours of such discovery, the Certificate Holder shall notify and consult with DPS Staff and OPRHP Field Services Bureau to determine the best course of action. No construction activities shall be permitted in the vicinity of the find until such time as the significance of the resource has been evaluated and the need for and scope of impact mitigation has been determined. The Certificate Holder's procedure for unanticipated discoveries will be specified in the EM&CP.
83. The Certificate Holder shall ensure that, should human remains or evidence of human burials be encountered during the conduct of archeological data recovery fieldwork or during construction, all work in the vicinity of the find is halted immediately and the remains are protected from further disturbance. The Certificate Holder shall immediately notify law enforcement/coroner and OPRHP Field Services Bureau and notify DPS Staff within twenty-four (24) hours. The Certificate Holder shall ensure that treatment of human remains is done in accordance with the OPRHP's Human Remains Discovery Protocol and the Certificate Holder's procedure for unanticipated discoveries as specified in the EM&CP, and that all archaeological or remains-related encounters and their handling is reported in the status reports summarizing construction activities and reviewed in the site-compliance audit inspections.

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84. The Certificate Holder shall ensure that the creation of adverse impacts on historic structures in the Project vicinity is avoided by implementing Project location, design, and vegetation management measures, specified in the EM&CP.
85. The Certificate Holder shall have a continuing obligation during construction to respond promptly to complaints of negative archeological impacts and, if necessary, to mitigate any actual impacts through on-site design modifications and off-site mitigation techniques developed in consultation with the OPRHP Field Services Bureau.

L. Terrestrial and Wildlife Resources

86. In order to identify T&E animal or plant species potentially located in the Project area, the Certificate Holder shall refer to 6 NYCRR Parts 182 and 193. Prior to the commencement of construction, the Certificate Holder shall provide all personnel with information on any T&E animal or plant species potentially located in the Project area and indicate measures to minimize risks to the species during construction.
87. If any T&E animal or plant species, or associated habitat (*see* Condition 86), other than those identified in Condition 88 and 90(b), are incidentally observed on or from the Project ROW, access roads, laydown yards, and any other areas where Project activities authorized in this Certificate are conducted, the Certificate Holder shall:
 - a. Notify DPS Staff and NYSDEC within 24 hours; and
 - b. To protect the identified species or its potentially occupied habitat from immediate harm, secure the immediate area, to the extent Certificate Holder has the necessary property rights, and cease construction in that area until DPS Staff, after consultation with NYSDEC, authorizes recommencement of activities.
88. To avoid, minimize and mitigate for impacts to Blanding's turtles, the Certificate Holder shall:
 - a. File with the Secretary a Blanding's Turtle Avoidance, Minimization, and Net Conservation Benefit Plan (Plan) developed in consultation with NYSDEC and DPS. The avoidance and minimization measures contained in the Plan must be filed with the Secretary before commencement of construction. The proposed net conservation benefit measures to be contained in the Plan shall be filed within six months after commencement of construction;
 - b. Avoid placement of structures within potential Blanding's turtle nesting and wetland habitat, to the maximum extent practicable. Where avoidance is not possible, the Certificate Holder shall implement measures, in consultation with NYSDEC, that result in a net conservation benefit to the Blanding's turtle;

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- c. Employ dedicated Blanding's Turtle Monitor(s) to be present for all work within potential Blanding's turtle nesting and associated and core wetland habitats, subject to the following conditions:
 - i. Qualifications of the Blanding's Turtle Monitor(s) shall be submitted to NYSDEC for acceptance, prior to the start of construction in any Blanding's turtle areas. The monitor(s) shall have a Blanding's turtle Endangered/Threatened Species License obtained from NYSDEC's Special License Unit or be listed as a Designated Agent on such a license (license application is available at: <http://www.dec.ny.gov/permits/25012.html>);
 - ii. The number of Blanding's Turtle Monitor(s) shall be determined in consultation with NYSDEC and DPS Staff;
 - iii. The Blanding's Turtle Monitor(s) shall be present to inspect work areas ahead of daily construction activities and shall continue to inspect periodically until construction activities stop for the work day. A daily inspection log shall be maintained and provided to NYSDEC and DPS staff upon request; and
 - iv. The Blanding's Turtle Monitor(s) shall handle the turtle consistent with the conditions set forth in the Blanding's Turtle Monitoring and Handling Protocol in the EM&CP.
89. Avoid construction activities within potential Blanding's turtle nesting and wetland habitats to the maximum extent practicable. Where avoidance is not possible, the Certificate Holder shall implement measures, in consultation with NYSDEC, that result in a net conservation benefit to the Blanding's turtle, to be identified in the Blanding's Turtle Plan.
90. Prior to the start of construction, the Certificate Holder shall have a qualified biologist re-identify the populations of species of special concern plants within the Project ROW and shall install construction fencing around the areas to restrict access during construction.
91. The Certificate Holder, for the protection of state-listed species of special concern, threatened, and endangered species, shall implement the following measures:
 - a. At least two weeks prior to construction activities, the Certificate Holder shall conduct a visual inspection in that area to determine if any bald eagle nests or large stick nest structures, as described in the EM&CP, are present.
 - b. During construction and maintenance activities, if any bald eagle nest is discovered within 0.25-miles of the work area, the Certificate Holder shall notify NYSDEC and DPS Staff within twenty-four (24) hours of discovery and, except in emergency situations, the nest shall not be approached. The 0.25-mile

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environmentally sensitive area shall be marked, where the Certificate Holder has property rights to allow such marking, and, except in emergency situations, this area shall be avoided until DPS Staff, after consultation with NYSDEC, authorizes activities in the buffer area. In the presence of a visual barrier (i.e. tree line, topography) that obstructs the view from the nest and shields it from work activities, the setback requirement may be reduced to 660 feet.

- c. Notify NYSDEC and DPS Staff within twenty-four (24) hours of the discovery of an active nest of any federal or state-listed threatened or endangered bird species within an active construction, ground clearing, grading, or maintenance activity area. The Certificate Holder shall record the location of the nest and then shall post and avoid an area of five hundred (500) feet, or the maximum accessible distance, whichever is greater, in radius from the nest until notice to continue construction at that site is granted by DPS Staff, after consultation with NYSDEC.
- d. Maintain a record of all observations of state threatened or endangered species during construction, operation, and maintenance of the Project.

M. Water Resources

- 92. The Certificate Holder shall perform all construction, operation and maintenance in a manner that first avoids then minimizes adverse impacts to waterbodies, wetlands, and the one hundred (100) foot adjacent areas associated with all State-regulated wetlands. The Certificate Holder shall ensure the provisions to protect wetlands, waterbodies, and adjacent areas are followed as specified in the approved EM&CP:
 - a. Wetland locations and adjacent areas located within the ROW or crossed by the ROW or any off-ROW access road constructed, improved, or maintained for the Project, shall be delineated in the field prior to construction and indicated on the approved EM&CP drawings.
 - b. If access roads or work pads in wetlands cannot be avoided, it shall be done with tracked equipment, on temporary construction mats, or shall be done during dry or frozen conditions. Such locations shall be as set forth on the EM&CP drawings; provided, however, if geotextile/gravel access roads are proposed, such proposal shall be justified in the EM&CP.
 - c. Unless otherwise specified in the approved EM&CP, all work in streams is prohibited from October 1 through May 31 in cold water fisheries, and from March 1 through July 31 in warm water fisheries.

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- d. All work in streams shall be conducted in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area, unless otherwise specified in the approved EM&CP.
- e. There shall be no substantial increase in visible contrast in water clarity or variation of flow volume due to construction activities between upstream reaches of work areas and downstream reaches of work areas.
- f. Water resulting from dewatering operations, equipment washing, or other construction related activities shall not be directly discharged into any wetland or waterbody.
- g. Bridges shall be installed wherever a new permanent stream crossing is required. The bridge shall span the bed and banks of the stream. If a bridge is not practicable, the approved EM&CP shall provide justification for a non-bridge crossing and the permanent culvert shall be designed in accordance with the approved EM&CP.
- h. Concrete batch plants and concrete washout areas shall be located a minimum of 300 feet away from any wetland or waterbody. If the minimum setback cannot be achieved, the approved EM&CP shall provide justification and demonstrate that impacts to wetlands and waterbodies from concrete batch plants and concrete washout areas shall be avoided or minimized to the maximum extent practicable.
- i. Fuel tanks or other chemical storage tanks shall be appropriately contained and located a minimum of 300 feet away from any wetland or waterbody. If the minimum setback cannot be achieved, the approved EM&CP shall provide justification and demonstrate that impacts to wetlands and waterbodies shall be avoided or minimized to the maximum extent practicable.
- j. Equipment refueling, maintenance, and repair shall be conducted a minimum of 100 feet away from any wetland or waterbody, to the maximum extent practicable.
- k. Disturbed streams shall be restored to equal width, depth, gradient, length and character as the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. All disturbed stream banks shall be mulched within (2) days of final grading, stabilized with 100% natural/biodegradable fiber matting, and seeded with an appropriate riparian seed mix specified in the approved EM&CP. In areas where vegetation has been uprooted or grubbed on stream banks, the vegetation shall be replaced with ROW compatible native plantings as site conditions and facility design allow, and as appropriate for consistency with existing land uses, excluding access roads and areas needed for operation and maintenance of the facility.

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- l. A site-specific Stream Crossing Plan shall be developed for each new permanent stream crossing (i.e., permanent bridge or culvert) in accordance with Specifications in Appendix F of the Joint Proposal. All structures must be able to safely pass the 1% storm event and be capable of withstanding any higher flow intervals likely to be experienced within a specific waterbody without causing damage to the stream bed or banks. Bridges or culverts may not be dragged through the stream and must be suitably anchored to prevent downstream transport during a flood. Fill may not be placed within the stream channel below bankfull elevation and placement of abutments or fill is authorized only above and outside bankfull boundaries. Geotextile fabric must be placed below and extending onto the bank and suitable side rails built into the bridges to prevent sediment from entering the waterbody. The permanent stream crossing shall facilitate downstream and upstream passage of aquatic organisms.
 - m. Any in-stream work or restoration shall not result in an impediment to passage of aquatic organisms.
 - n. Disturbed wetlands and State-regulated wetland adjacent areas shall be immediately stabilized and restored to pre-construction contours as soon as practicable. Immediately upon completion of grading, and as consistent with existing land uses, the area shall be seeded with a seed mix of native plants specified in the approved EM&CP that is appropriate for such areas. Overall vegetative cover in restored areas shall be monitored for a minimum of 5 years or until an 80% cover of plants with the appropriate wetland indicator status has been reestablished over all portions of the restored area.
93. The Certificate Holder shall work with NYSDEC to develop a Wetland Mitigation Plan, if necessary, following NYSDEC's wetland mitigation guidelines and the specifications contained in Appendices F and G of the Joint Proposal and will submit the Plan within six months of the start of construction for NYSDEC Staff acceptance.
 94. Upon filing a permit application with the USACE, the Certificate Holder shall provide a copy to DPS Staff.

N. Agricultural Resources

95. As required by Certificate Condition 66(a), the Certificate Holder shall retain a qualified inspector who also qualifies as an Agricultural and Soil Conservation Specialist/Inspector. The Certificate Holder shall ensure that the names and qualifications of its agricultural inspector are submitted to NYSDAM at least two (2) weeks prior to the start of construction of the Project for approval. When working in agricultural lands, such inspector shall be on-site for each phase of Project development, including design, construction, initial restoration, post-construction monitoring, and follow-up restoration. If qualified, and upon NYSDAM's review and consent, the environmental inspector may

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satisfy this requirement. The agricultural inspector shall be available to provide site-specific agricultural information as necessary for the Certificate Holder's EM&CP development through field review as well as to have direct contact with affected agricultural producers, County Soil and Water Conservation Districts, NYSDAM, and others. The agricultural inspector shall maintain regular contact with the environmental inspector and/or the construction supervisor throughout the construction phase. The agricultural inspector also shall maintain regular contact with the affected farmers and County Soil and Water Conservation Districts concerning farm resources and management matters pertinent to the agricultural operations and the site-specific implementation of the EM&CP. Whenever the Certificate Holder submits a request for an EM&CP change concerning agriculture, the Certificate Holder shall consult with NYSDAM.

96. The Certificate Holder shall identify black cherry trees located on the Project ROW near active livestock use areas during development of the EM&CP. During the clearing phase, such vegetation shall be disposed of in a manner which prevents access by livestock.
97. In agricultural areas, logs, stumps, brush, or chips shall not be piled or buried in active agricultural fields or improved pasture.
98. The Certificate Holder shall design the Project, to the extent possible, to avoid or limit the placement of structures on crop fields or on other active agricultural land where the structures may significantly interfere with normal agricultural operations or activities. Where the location of a structure on such agricultural land is unavoidable, the Certificate Holder shall attempt to site the structure in a location that minimizes impact to normal farming operations.
99. The Certificate Holder shall ensure that, during preparation of the EM&CP, and in accordance with the EM&CP, a drainage line repair procedure shall be developed, in consultation with NYSDAM or the local Soil and Water Conservation District, for the repair of crushed/severed clay tile and plastic drain lines. Drawings showing the generic technique to be implemented for drain line repairs shall be provided by the Certificate Holder. All new plastic drain tubing shall meet or exceed the AASHTO M252 specifications. The plan for the replacement of functional stone drainage systems severed during construction shall be prepared during the restoration phase, in consultation with NYSDAM or the local Soil and Water Conservation Districts.
100. The Certificate Holder shall ensure that, where construction entrances are required from public roadways to the Project ROW in agricultural fields, either construction matting will be used or an underlayment of durable, geotextile fabric is placed over the exposed subsoil surface prior to the use of temporary gravel access fill material. In locations where underground utilities are located within 10 feet of the shoulder of the roadway, the Certificate Holder may elect, in order to minimize disturbance and protect the underground utilities, to place the geotextile fabric directly over the surface without

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stripping topsoil. In locations where underground utilities are located 10 feet or more from the shoulder of the roadway, but still within the limits of the construction entrance, the Certificate Holder may elect to mat over the underground utilities instead of placing geotextile fabric and gravel access fill material. Complete removal of the construction entrance upon completion of the Project and restoration of the affected site is required prior to topsoil replacement, except where retention of the construction entrance would be more conducive to the existing land use than removal.

101. The Certificate Holder shall ensure that segments of farm roads that need improvement in order to be utilized for access are improved in consultation with the agricultural producer and NYSDAM prior to use. Such improvements may include the installation of geotextile fabric and crushed stone. Improvements shall be coordinated through the agricultural inspector and the agricultural producer to allow continued agricultural use of farm roads by the agricultural producers.
102. The Certificate Holder shall ensure that farm drainage features, fences, and gates affected by construction are rebuilt to like new condition upon completion of construction, and the base of all new posts are secured to a reasonable depth below the surface to prevent frost heave. The Certificate Holder shall provide information concerning the construction of fences gates (whether temporary or permanent) to the agricultural producer and NYSDAM.
103. Where repeated temporary access is necessary across agricultural portions of the ROW and agricultural fields are utilized for access, construction mats should be utilized as an alternative to topsoil stripping. The Certificate Holder shall ensure that where mats are installed; the mats are layered where necessary to provide a level access surface; and once access is no longer required for Project construction, the mats are removed and the agricultural inspector uses a soil penetrometer to determine if soil compaction has occurred as a result of construction activities. All compacted areas shall be remediated.
104. The Certificate Holder shall ensure that: where the installation of mats is not practical, topsoil is removed, including all of the "A" horizon down to the beginning of the subsoil "B" horizon, generally not to exceed a maximum of twelve (12) inches (topsoil removal up to a depth of sixteen (16) inches may be required in specially-designated soils encountered along the Project route and identified in the EM&CP); all topsoil is stockpiled directly adjacent to the travel way on the Project ROW and separated from other excavated materials; the agricultural inspector determines depth of topsoil stripping on each affected farm by means of the County Soil Survey and on-site soil augering, if necessary; all topsoil material is stripped, stockpiled, and uniformly returned to restore the original soil profile; during the clearing/construction phase, site-specific depths of topsoil stripping is monitored by the Agricultural Inspector; and the use of topsoil stripping for construction access, as opposed to matting, is done only with approval from DPS Staff in consultation with NYSDAM.

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105. The Certificate Holder shall provide access for the agricultural producer to maintain normal agricultural operations to the maximum extent practicable. Where agriculture access is required to cross construction access, alterations to construction access shall be made to offer safe crossing considering agriculture equipment clearances, turning radius, and other operation concerns. Where Project bisects agricultural areas and limits agricultural equipment operation to perform normal agricultural operations outside of the Project ROW during construction, the Certificate Holder shall compensate the agricultural producer for the loss of the applicable commodity, otherwise scheduled construction shall avoid such impacts.
106. The Certificate Holder shall ensure that: in agricultural areas of till over bedrock where blasting is required, matting or controlled blasting is used to limit the dispersion of blast rock fragments; all blasted rock not used as backfill is removed from croplands, haylands and improved pastures; the till and topsoil is returned in natural sequence to restore the soil profile; and farm owners/operators are given timely notice prior to blasting on farm property. If fill material is required, the proposed material shall be filled with an invasive free material similar to native soil to the same level as the adjacent area, plus six (6) to twelve (12) inches of additional soil to allow for settling.
107. The Certificate Holder shall ensure that: in all agricultural sections of the Project ROW disturbed during construction, the subsoil compaction is eliminated (if applicable) to a depth of 18 inches (unless bedrock is encountered at a depth less than 18 inches) with deep tillage by such devices as a deep-ripper (subsoiler); final soil compaction results shall not be more than 250 pounds per square foot (“PSF”) as measured with a soil penetrometer once moisture of the soil profile on the affected portion of the project ROW has been returned to equilibrium with the adjacent off-ROW land; following the deep ripping, all stone and rock material four (4) inches and larger in size, which has been lifted to the surface, is collected and taken off site for disposal; following the deep ripping, all debris shall be disposed of in a manner consistent with Certificate Condition 60; the topsoil temporarily removed for the period of construction shall then be replaced; deep subsoil shattering shall be performed with a subsoiler tool having angled legs; and stone removal shall be completed, as necessary, to eliminate any additional rocks and stones brought to the surface as a result of the final subsoil shattering process. Should subsequent construction and/or restoration activities result in compaction, then restoration activities shall include additional deep tillage.
108. The Certificate Holder shall ensure that: all structure foundations and guy anchors removed from agricultural areas as part of the construction activities are removed to a minimum depth of 48 inches below the soil surface; all holes or cavities created by the removal of the old facilities are filled with an invasive free material similar to native soil to the same level as the adjacent area, plus six (6) to twelve (12) inches of additional soil to allow for settling; all holes or cavities created by the installation of new structures or facilities are filled with material appropriate for the structure being installed to the same level as the adjacent area; and all fill material is compacted.

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109. The Certificate Holder shall ensure that: wherever existing structures are removed from agricultural fields, the area is restored to allow the resumption of agricultural activities; such restoration includes the removal of all woody vegetation from the structure area and grading of the ground surface to match the adjacent field; and all stone and rock material four (4) inches and larger in size are removed from the surface. All debris shall be disposed of in a manner consistent with Certificate Condition 60.
110. The Certificate Holder shall provide a monitoring and remediation period of two (2) growing seasons following completion of ROW restoration in active agricultural areas. The Certificate Holder shall retain the services of an agricultural inspector on at least a part-time basis through this period. The monitoring and remediation phase shall be used to identify any remaining agricultural impacts associated with construction of the Project that are in need of mitigation and to implement the follow-up restoration. During this phase, the agricultural inspector shall also maintain a list of invasive species observed on such portion of the Project ROW in agricultural areas, adjoining ROW areas, and other areas utilized by the current field operator. In agricultural areas where invasive species are documented along such portion of the Project ROW, such Certificate Holder, in consultation with the agricultural inspector, DPS Staff and NYSDAM, shall determine whether such species were pre-existing or whether such species were introduced by its work on the Project in accordance with the Invasive Species Plan as discussed in Certificate Condition 134. If it is determined at the end of the Certificate Holder's work, the Project was directly responsible for the introduction of invasive species to the agricultural areas, the Certificate Holder shall consult with the agricultural producer, DPS Staff, NYSDEC and NYSDAM to determine the appropriate control measures to implement.
111. The Certificate Holder shall ensure that, during the monitoring and remediation period of the Project, on-site monitoring shall be conducted at least three times (spring, summer and fall) during each growing season and shall include a comparison of growth and yield for crops on and off of the Project ROW. When the subsequent crop productivity within the affected ROW is less than that of the adjacent unaffected agricultural land, the agricultural inspector, in conjunction with the Certificate Holder and other appropriate organizations, shall help to determine the appropriate rehabilitation measures for the Certificate Holder to implement further mitigation (e.g. soil de-compaction, topsoil replacement, soil amendments, etc.). The Certificate Holder shall ensure that, during the various stages of the Project, all affected farm operators are periodically apprised of the duration of remediation by the agricultural inspector. Because conditions which require remediation may not be noticeable at or shortly after the completion of construction, the signing of a release form prior to the end of the remediation period shall not obviate the Certificate Holder's responsibility to fully redress the impacts of the Project. After completion of the specific remediation period, the Certificate Holder shall continue to respond to the reasonable requests of the farmland owner/operators to correct effects related to the Project on the impacted agricultural resources.

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112. The Certificate Holder shall provide all affected farm owners/operators with a telephone number to facilitate direct contact with the Certificate Holder and the agricultural inspector through all of the stages of the work on the Project. The Certificate Holder shall also ensure that the farm owner/operators are provided with a telephone number to facilitate direct contact with the Certificate Holder's Project Manager during operation and maintenance of the transmission line.
113. The agricultural inspector shall work with the agricultural producers during the planning phase to develop a plan to delay the pasturing of the Project ROW during construction as well as following construction of each segment of the Project until pasture areas are adequately revegetated. The Certificate Holder shall be responsible for maintaining the temporary fencing on the applicable portions of the ROW until the agricultural inspector determines that the vegetation on such portions of the ROW is established and able to accommodate grazing. At such time, the Certificate Holder shall be responsible for removal of the fences.
114. The Certificate Holder shall ensure that: on affected farmland, restoration practices are postponed until favorable (workable, relatively dry) topsoil/subsoil conditions exist; restoration is not conducted while soils are in a wet or plastic state; stockpiled topsoil is not regraded until plasticity, as determined by the Atterberg field test, or a similar soil moisture test, is significantly reduced; and no Project restoration activities occur in agricultural fields between the months of October through May unless favorable soil moisture conditions exist. The Certificate Holder shall monitor and advise NYSDAM and DPS Staff regarding tentative restoration planning for the Project. Potential schedules will be determined by conducting the Atterberg field test, or a similar soil moisture test, at appropriate depths into topsoil stockpiles and below the traffic zone for a mutual determination of adequate field conditions for the restoration phase of the Project.
115. Following restoration of all disturbed areas, excess topsoil shall be distributed in agricultural areas of the site, provided this is practicable and can be accomplished without having any adverse impact on site drainage. All such activity shall be as directed by the Agricultural Inspector, based on guidance provided by the landowner.
116. After restoration and once the moisture of the soil profile on the affected portion of the Project ROW has been returned to equilibrium with the adjacent off-ROW land, subsoil compaction shall be tested using an appropriate soil penetrometer or other soil-compaction measuring device.
117. The Certificate Holder shall ensure that: topsoil stockpiles on agricultural areas left in place prior to October 31 are seeded with Aroostook Winter Rye or equivalent at an application rate of three (3) bushels (168 #) per acre and mulched with straw mulch at rate of two (2) to three (3) bales per 1,000 sq. ft.; topsoil stockpiles left in place between October 31 and May 31 are mulched with straw mulch at a rate of two (2) to three (3)

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bales per 1,000 sq. ft.; and straw (not hay) mulch is used to prevent soil loss on stockpiled topsoil from October through May.

118. The Certificate Holder shall ensure that, after topsoil replacement, seedbed preparation (final tillage, fertilizing, liming) and seeding should be prepared using equipment appropriate for the agricultural conditions and following either the pre-existing crop, the agriculture producer's request, and/or NYSDAM recommendations as contained in *Fertilizing, Lime and Seeding Recommendations for Restoration of Construction Projects on Farmlands in New York State* (revised 9-25-2012).

O. Petroleum and Hazardous Substances

119. The EM&CP shall include a plan for storage of all petroleum and hazardous substances which may be used during, or in connection with, the construction, operation, or maintenance of the Project.
120. The EM&CP shall include a plan for responding to and remediating the effects of any spill of petroleum and hazardous substances in accordance with applicable law and regulations. Such plan shall be developed in accordance with applicable state and federal laws, regulations and guidance, and shall include proposed methods of handling spills of petroleum products and hazardous substances which may be stored or utilized during the construction, operation, or maintenance of the Project.
121. The Certificate Holder shall comply with New York Navigation Law § 175, 6 NYCRR § 613.8 (petroleum spills), and 6 NYCRR § 595.3(b) (hazardous substance spills).

P. Contractors and Contractor Supplies/Materials

122. At least two (2) weeks prior to the Certificate Holder's construction of a particular Project segment, as defined in the EM&CP, the Certificate Holder shall submit a report to the Secretary confirming that all required construction materials are available for the Project. For purposes of this paragraph, an item of construction material is available if: (i) it is located at a laydown yard; (ii) it is in a Certificate Holder's warehouse or other routine Certificate Holder inventory stocking location; or (iii) it is on order from a vendor with a scheduled delivery date prior to the time scheduled for its use in the Project.
123. The Contractor shall be responsible for all construction materials after they have been received by the Contractor. All equipment shall be located within approved laydown yard(s) or within the Project ROW, or other off-ROW areas provided, however, that if a local contractor is used for the work, the local contractor's facility may be considered as an acceptable laydown yard.
124. DPS Staff will provide the name of a contact person(s) ("DPS Staff Representative") and the contact information (mailing address, phone number, e-mail, etc.) of that individual for purposes of this Certificate Condition and Certificate Conditions 122 through 132 of

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this Certificate. If a reportable accident occurs in connection with work on the Project, the Certificate Holder shall report such accident to the DPS Staff Representative as soon as possible, and shall provide a copy of the accident report, if any, to the DPS Staff Representative after it has been finalized.

125. The Certificate Holder shall provide the DPS Staff Representative with a monthly audit report reflecting material inventory and usage by the Certificate Holder during its work on the Project.
126. The Certificate Holder shall provide the DPS Staff Representative with a copy of any police report and any insurance claim filed in connection with any theft of Project-related materials, as well as a list of the stolen items. Subsequently, the Certificate Holder shall provide the DPS Staff Representative with an accounting of all replacement materials. The Certificate Holder's accounting of replacement materials shall include documentation of the insurance company's coverage and the contractor's costs for replacement.
127. The Certificate Holder shall, within six (6) months following completion of restoration of the Project ROW, provide to the DPS Staff Representative a full accounting of all costs incurred to date for the Project, including an explanation of variances, if any, between projected and actual costs.
128. The Certificate Holder shall ensure that a company engineer who designed the Project, or a representative from the engineering design firm that designed the Project or another Consultant selected by the Certificate Holder, shall conduct field reviews on a monthly basis and prepare a written report of the firm's findings on whether the Project is being constructed in accordance with the design for the Project. The Certificate Holder shall provide a copy of each such report to the DPS Staff Representative within three (3) business days after the Certificate Holder receives the report. The Certificate Holder shall notify the DPS Staff Representative of when the field reviews will occur.
129. If a Contractor installs materials, structures, or components that do not conform to those specified in the EM&CP, the Certificate Holder, within one (1) month after becoming aware of such incident, shall prepare and deliver to the DPS Staff Representative a summary report detailing the incident, the steps to be taken to rectify the mistake, the material and labor costs associated with rectifying the incident, and the manner in which such costs will be accounted for separately from the Certificate Holder's other Project costs.
130. The Certificate Holder shall develop a quality control plan ("Quality Control Plan") for the Project to be included in the EM&CP describing how it will ensure that the transmission line structures and components it purchases for the Project conform to the specification for structures and components described in the EM&CP. At a minimum, the Quality Control Plan shall include:

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- (i) the name(s) and qualifications of the individual(s) who will conduct audits under the Quality Control Plan (“Quality Control Audits”); and
 - (ii) the frequency with which the Quality Control Audits will be performed.
131. Within 5 business days following completion of each Quality Control Audit, the Certificate Holder shall provide to Staff a report of such audit that includes: (i) a description of the results of the audit, particularly with respect to results that identify that one or more structures or components the Certificate Holder purchased for installation in the Project did not conform to the specification for structures or components described in the approved EM&CP; and, (ii) any notes pertinent to the subject matter of such audit which were made at audit meetings by the Certificate Holder’s personnel and contractors who performed the audit.
132. If any Quality Control Audit conducted by the Certificate Holder confirms that one or more structures or components the Certificate Holder purchased for installation in the Project did not conform to the specification for structures and components described in the approved EM&CP, the Certificate Holder shall: (i) provide written notification to the Secretary within 24 hours of the Certificate Holder’s confirmation of such non-conformity; and (ii) describe the steps the Certificate Holder will take to correct the non-conformity, including whether any components must be dismantled and sent back to the manufacturer, as well as a detailed estimate of all costs and expected delays in construction resulting from such non-conformity.
133. All costs incurred by the Certificate Holder as a result of its purchase of a structure or component for installation in the Project that did not conform to the specification for structures and components described in the approved EM&CP shall be accounted for separately from the Certificate Holder’s overall Project costs.

Q. Invasive Species

134. The Certificate Holder shall prepare an Invasive Species Plan in consultation with NYSDEC which shall ensure compliance with 6 NYCRR Part 575. The Certificate Holder shall implement said Invasive Species Plan as part of the approved EM&CP.

R. Water Quality Certification

135. Concurrent with Commission approval of the EM&CP for this Project, the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas and Water, pursuant to § 401 of the Federal Water Pollution Control Act (“Clean Water Act”), as amended, 33 U.S.C. § 1341, and PSL Article VII, will execute the certification, substantially in the form of Appendix G to the Joint Proposal, that the Project will comply with the applicable requirements of §§ 301, 302, 303, 306, and 307 of the Clean Water

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Act, as amended, and will not violate New York State water quality standards and requirements.

Case 18-T-0207 – Joint Proposal

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 18-T-0207 - Application of New York Power Authority for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for the Rebuild of Existing Moses-Adirondack 1&2 230 kV Transmission Lines Extended approximately 86 Miles from the Robert Moses Switchyard in the Town of Massena, St. Lawrence County to the Adirondack Substation in the Town of Croghan, Lewis County, New York.

JOINT PROPOSAL

By: Power Authority of the State of New York d/b/a New York Power Authority
Staff of the New York State Department of Public Service
New York State Department of Agriculture and Markets
New York State Department of Environmental Conservation

Dated: September 20, 2019
Albany, New York

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BEFORE THE
PUBLIC SERVICE COMMISSION
STATE OF NEW YORK

Application of New York Power Authority)
for a Certificate of Environmental)
Compatibility and Public Need Pursuant)
to Article VII for the Rebuild of the)
Existing Moses-Adirondack 1&2 230 kV)
Transmission Lines Extending approximately) Case 18-T-0207
86 Miles from the Robert Moses Switchyard)
in the Town of Massena, St. Lawrence)
County to the Adirondack Substation in)
the Town of Croghan, Lewis County,)
New York)

JOINT PROPOSAL

The Power Authority of the State of New York, also known as the New York Power Authority (“NYPA” or the “Applicant”), the Staff of the New York State Department of Public Service designated to represent the public interest in this proceeding (“DPS Staff”), the New York State Department of Environmental Conservation (“NYSDEC”), the New York State Department of Agriculture and Markets (“Ag & Mkts”) and any other parties executing this Joint Proposal (collectively, the “Signatory Parties”) respectfully submit this Joint Proposal, which includes Appendices A through G, on the 20th day of September, 2019, pursuant to Rule 3.9 of the Procedural Rules of the New York State Public Service Commission (the “Commission”), 16 N.Y.C.R.R. § 3.9 (2018).

**INTRODUCTION AND
BACKGROUND**

On April 5, 2018, the Applicant submitted its Application, in accordance with Article VII of the Public Service Law (“PSL”), for a Certificate of Environmental Compatibility and Public Need (the “Application”) for the Rebuild of its Existing Moses-Adirondack 1&2 230 kV transmission lines (the “MA1&2 Lines”) extending from the Town of Massena in St. Lawrence County to the Town of Croghan in Lewis County, New York (the “Project”). The Application was accompanied by a motion seeking waivers of application requirements under sections 3.3 and 3.6 of the Commission’s Procedural Rules, 16 N.Y.C.R.R. §§ 3.3 and 3.6 (2018), which motion was amended on August 3, 2018. By letter dated May 9, 2018, the Commission’s Secretary (the “Secretary”) identified certain deficiencies in the Application, which the Applicant addressed in a June 19, 2018 supplemental filing.

By Order dated September 17, 2018, the Commission granted the Applicant’s waiver requests. In a September 21, 2018 letter, the Secretary informed the Applicant that the Application was in compliance with PSL § 122, effective September 17, 2018. On October 3, 2018, the Secretary issued a Notice of Availability of Intervenor Funding in which Administrative Law Judges Anthony Belsito and James Costello were designated as the presiding administrative law judges in this proceeding (the “ALJs”). Public Statement Hearings were held by Judge Belsito in Croghan, New York on November 28, 2018, in Canton, New York on November 29, 2018, in Massena, New York, on November 29, 2018. Each hearing was preceded by an informational forum. Judge Belsito held a pre-hearing procedural conference in Massena, New York, on November 30, 2018.

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DPS Staff, NYSDEC, Ag & Mkts, New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”), and the Adirondack Park Agency are parties to this proceeding pursuant to PSL § 124(1). In a December 19, 2018 ruling, the ALJs granted party status to the Towns of Canton, Hermon, Louisville, Massena and Norfolk (the “Towns”) and to the Municipal Electric Utilities Association. In addition, the ALJs granted intervenor funding to the Towns in the amount of \$100,000. The Applicant filed a Notice of Impending Settlement Negotiations on December 28, 2018, and settlement discussions were held pursuant to that Notice on January 14, 2019, January 25, 2019, March 5, 2019, April 5, 2019, May 6, 2019, August 16, 2019 and September 9, 2019. In addition, technical meetings, conference calls and electronic communications facilitated the settlement process.¹ A procedural conference was held by Judges Costello and Sayre on September 5, 2019.

After thorough discussion of the issues, the Signatory Parties have agreed that settlement is now feasible. The Signatory Parties believe that this Joint Proposal gives fair and reasonable consideration to the interests of all parties and that its approval by the Commission is in the public interest.

¹ On June 27, 2019, the Parties were informed that Judge Belsito was no longer assigned to this case, and on August 27, 2019, the Parties were informed that Administrative Law Judge Gregg C. Sayre had been assigned to the case.

TERMS OF THE JOINT PROPOSAL

I. GENERAL PROVISIONS

1. The support of the Signatory Parties for this Joint Proposal is expressly conditioned upon approval by the Commission of all provisions thereof, without material change or condition. If the Commission does not adopt the terms of this Joint Proposal, the Signatory Parties are free to pursue their respective positions in this proceeding without prejudice.

2. The terms and provisions of this Joint Proposal apply solely to, and are binding only in, the context of the present Article VII proceeding and do not necessarily reflect the position any Signatory Party would take in a future adjudicatory proceeding. Each Signatory Party reserves the right in future Article VII proceedings to propose or include such terms and conditions as it may deem appropriate.

3. The discussions that produced this Joint Proposal have been conducted with the explicit understanding, pursuant to Rule 3.9(d) of the Commission’s Procedural Rules, 16 N.Y.C.R.R. § 3.9(d) (2011), that any discussions among the Signatory Parties with respect to this Joint Proposal prior to its execution and filing shall not be subject to discovery or admissible as evidence.

4. Except as expressly provided in Paragraph 8 of this Joint Proposal, nothing in this Joint Proposal or any attached appendices is intended to directly impose any obligations on or limit any pre-existing rights of any of the parties other than the Applicant.

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5. Any disagreement over the interpretation of this Joint Proposal or implementation of any of its provisions that cannot be resolved informally among the Signatory Parties shall be resolved in the following manner:

a. the Signatory Parties shall promptly convene a conference and make good faith attempts to resolve the disagreement; and,

b. if the disagreement cannot be resolved by the Signatory Parties, any Signatory Party may request the Commission to resolve the disputed matter.

6. This Joint Proposal is not a waiver of the Applicant's rights to apply for additional or modified permits, approvals, or certificates from the Commission or any other agency.

7. Nothing in this Joint Proposal shall be construed as either waiving or expanding in any way the authority of any state agency to enforce the laws and regulations that are the subject of its jurisdiction.

8. All of the Signatory Parties fully support approval of the Joint Proposal in its entirety. The Signatory Parties recognize this Joint Proposal may require future actions by various parties and agree to undertake, in good faith, these future actions.

9. This Joint Proposal is being executed in counterpart originals and shall be binding on each Signatory Party when the counterparts have been executed.

II. EVIDENTIARY RECORD

10. Appendix A attached to this Joint Proposal lists the discovery, testimony, affidavits and exhibits agreed upon by the Signatory Parties to be admitted as record evidence in this proceeding (collectively, the "Evidentiary Record").

III. DESCRIPTION OF THE PROJECT

11. The Signatory Parties agree that the attached Appendix B accurately describes the Applicant's existing MA1&2 Lines and the location, configuration and design of the upgrade to those lines in Phase One and Phase Two of the Project, all of which the Signatory Parties recommend that the Commission approve.

12. The issuance of the Certificate for the Project does not prohibit NYPA from continuing to operate and maintain its existing facilities comprising the MA1&2 Lines, the Moses Switchyard and the Adirondack Substation, in accordance with the terms and conditions of its existing repair and maintenance permits issued by NYSDEC and subject to the supervision and control of the Commission, until those facilities are rebuilt as part of the Project as described above. As part of such repair and maintenance obligations, NYPA will upgrade the existing shield wires on the first 8 miles of the MA1&2 lines to optical ground wire ("OPGW") as part of Phase One of the Project.

IV. ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

13. The Commission must consider the totality of all relevant factors in making its determination of environmental compatibility and public need. The relevant factors include, without limitation, the basis of the need, the cost of the Project, the environmental impacts of the Project, the availability and impacts of alternatives, undergrounding considerations, conformance to long-range plans, electric system reliability, state and local laws and the public interest, convenience and necessity.

A. The Need for the Project

14. The Signatory Parties agree that there is a compelling need for the rebuild of the Applicant's MA1&2 Lines and other upgrades proposed in this proceeding. The approximately 78 miles of the existing MA1&2 Lines constructed on wooden H-frames were originally constructed in 1942 and transferred to the Applicant in 1950. Those wooden H-frame structures have substantially exceeded their design lives and are therefore subject to risk of frequent failure. Similarly, the conductors have failed due to metal fatigue, and these failures will become more frequent as they continue to age. Moreover, the original design criteria are outdated and non-compliant for current standards. Reconstruction of this portion of the MA1&2 Lines is required to make those lines more robust, less susceptible to failures, and to reduce maintenance.

15. In the event of failure, repair activities could require that either or both of the MA1&2 Lines be out of service for significant periods of time.

16. The Signatory Parties agree that re-construction of this portion of the Applicant's existing MA1&2 Lines is needed to transmit power from the Moses Switchyard at NYPA's St. Lawrence-FDR Power Project in Massena, New York to the Adirondack Substation in Croghan, New York. Depending upon system conditions when the MA1&2 Lines are out of service, there may be congestion on the other transmission lines along this corridor causing an increase in electricity prices. This congestion may also cause generation to be bottlenecked. Outages of the MA1&2 Lines have the potential to reduce carbon-free generation at the St. Lawrence-FDR Power Project and increase the Applicant's cost of service.

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17. The Signatory Parties further agree that re-construction of the existing MA1&2 Lines is required to allow those lines to continue to function as an important component of the New York Independent System Operator's ("NYISO") System Restoration Plan ("Blackstart"). In the case of a future New York system-wide outage, the Project will be needed to re-energize the bulk electric system.

18. The Project will provide increased transmission capacity from Northern New York to other parts of the state required for the development of the substantial amounts of new renewable generation needed to meet New York's Clean Energy Standard with greater reliability and operational flexibility, particularly during outages of NYPA's Massena – Marcy 765 kV electric transmission line ("MSU-1"). While the Project cannot operate at 345 kV until National Grid upgrades its Adirondack to Porter Line, the Signatory Parties agree that prudent planning requires that provision be made for a cost-effective response to reasonably anticipated growth in load, such as the growth in load that will result from the Clean Energy Standard.

B. The Cost of the Project

19. The estimated cost of the Project is \$668,735,000 as detailed in Exhibit 9 of the Application. The estimated costs assume that Phase One will begin construction in January 2020 and be completed in 2023. Phase Two will be coordinated with a similar upgrade of National Grid's Adirondack to Porter 230 kV line to 345 kV. The cost estimates provided were in 2018 dollars.

20. Construction and operation of the Project will not directly impact the local economy of any community crossed by the Project in a manner sufficient to induce any significant changes in local residential, commercial, agricultural or industrial land use patterns.

21. The economic impact of Project construction is expected to be primarily limited to the Project's construction-related employment because neither the scale nor nature of the Project would likely produce long-term economic growth in the area. Project-related spending on local workers, goods and services would support local jobs, income, sales, and tax-revenue. This spending may temporarily increase demand for lodging, restaurants, and other services, including local procurement in the vicinity of the Project.

C. Environmental Impacts of the Project

The Evidentiary Record describes the nature of the probable environmental impacts of the Project which are briefly summarized below. The Signatory Parties agree that the Project, as this Joint Proposal and the accompanying Appendices propose it to be located and configured, represents the minimum adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations. The proposed design maximizes the use of existing right-of-way ("ROW") (except for the SUNY Canton reroute), avoids or minimizes the disturbance of natural habitat to the extent feasible, and minimizes potential disturbance to existing land uses, activities, and traffic.

The Signatory Parties agree that NYPA's preparation of the laydown yards, as described in Record Exhibit 26, as set forth in Appendix A to this Joint Proposal, represents the minimum

adverse environmental impact considering the state of available technology and the nature and economics of the various alternatives and other pertinent considerations.

1. Land Use Impacts

22. The rebuild of the MA1&2 Lines will occur, for the most part, within the existing ROW with the exception of the one-mile reroute at the SUNY Canton campus. Land uses adjacent to or near the Project vary widely along the existing transmission line route. However, due to the use of the existing ROW, there will be virtually no discernable change in land use conditions as a result of the Project. As noted in Exhibit 4 of the Application, because the Project will remove approximately half of the structures on the ROW, land utilization is likely to increase as a result of the Project. The Project would not affect the goals of either the 2009 or 2014 *New York State Open Space Plan*, and will have a negligible effect, if any, on local and regional land use patterns and/or planning due to the use of the existing ROW.

23. SUNY Canton has agreed to grant the Applicant the easement rights necessary to construct and operate the Project at that location in exchange for the release of the Applicant's current easements bisecting the SUNY Canton campus. The reroute will allow SUNY Canton to make greater use of their campus and undertake projects outlined in their development plan.

24. NYPA has existing easement rights with respect to the proposed ROW and plans to use existing access roads where feasible. NYPA is communicating with landowners who will be impacted by Project construction activities. The substation work required in Phase Two will not require the acquisition of additional real property rights.

25. Approximately 1.8 miles of the Project is located within the Adirondack Park (the “Park”), and the Project crosses the Middle Branch of the Oswegatchie River (the “River”) within the Park. The Project increases the span length between structures and reduces the total number of structures within the Park. As the Project uses the existing ROW, there will be no discernable change in land use within the Park. The Project is consistent with the Park’s land use and development plan, the overall intensity guideline for the land use area involved, and applicable shoreline restrictions. Furthermore, it is compatible with the character description and purpose, policies and objectives of the land use area wherein it is proposed to be located.

2. Agricultural Resource Impacts

26. The Project traverses active agricultural land, three agricultural districts, and approximately 16 miles of cropland, pasture, and hay fields.

27. NYPA attempted to avoid impacts to active agricultural fields when designing the Project by siting the new transmission structures at the edge of active fields, where possible. When a structure could not be relocated to the edge of the active agricultural field, it was sited in the vicinity of the existing structure.

28. NYPA will attempt to minimize impacts to the agricultural producer (including cropland, and field access) at the proposed expansion of the Adirondack Substation.

29. To minimize potential impacts to agricultural resources traversed by the Project, NYPA will adhere to Ag & Mkts’ *Guidelines for Electric Transmission Right-of-Way Projects* and will identify measures designed to minimize impacts to active agricultural land in the Environmental Management and Construction Plan (“EM&CP”).

3. Visual Resource Impacts

30. The Applicant conducted a viewshed analysis, field evaluation, and visual simulations to evaluate the Project's impact on visual and aesthetic resources. The results of the analysis, submitted with the Application, indicated that there will be some increased visibility of transmission structures due to the increase in height of the proposed structures. However, the overall viewshed would be improved due to reduction in the total number of structures along the ROW.

31. Potential visual impacts of the Project are minimized through use of the existing ROW, reducing the number of structures by approximately fifty percent, through the use primarily of monopoles rather than H-frame structures, and through the use of non-specular wire. The Project is also adjacent to other transmission line ROWs for much of its length, further minimizing visual impacts.

32. As stated above, the Project crosses a scenic river within the Park. However, structures will be placed to minimize visibility from the River to the extent practicable – the nearest proposed structure will be located approximately 30 ft. further from the mean high-water mark than the nearest existing structure. Also, the proposed monopoles create a less cluttered appearance compared to the existing structures. As a result of structure location and design, the Signatory Parties agree that no significant change or additional impacts to the scenic quality of the River are anticipated due to the reduction in visual clutter and number of structures.

33. At the request of DPS Staff, the Applicant has taken steps to determine whether shorter structures could be used in certain locations to minimize the visual impacts of the Project.

As the use of shorter structures would result in decreased spans and a larger number of structures on the ROW, the Signatory Parties have agreed that this generally would not further reduce visual impact.

4. Cultural & Historic Resource Impacts

34. In consultation with OPRHP and interested, federally recognized Native American Nations, NYPA developed a GIS-based predictive model to identify areas with probability to contain archaeological sites. An archaeological survey, comprised of two phases, was conducted to assess the efficacy of the predictive GIS-based model and to identify any archaeological sites.

35. Eleven NRHP-listed historic sites/districts were identified within three miles of the proposed ROW in St. Lawrence and Lewis Counties. The archaeological survey identified Jerden Falls Cemetery as the only archaeological resource that could potentially be affected by the Project. The architectural survey concluded that the Project could potentially affect fourteen resources, with direct impacts possible for the St. Lawrence-FDR Power Project Historic District and the Moses-Adirondack Transmission Line.

36. To avoid impacts to Jerden Falls Cemetery, the Applicant will install fencing around the cemetery's 75-foot buffer prior to construction and maintain it until all construction activities in the vicinity of the cemetery have been completed. OPRHP concurred with NYPA's proposed avoidance buffer in August 2016.

37. The Project EM&CP will identify mitigation measures with respect to cultural and historic resource impacts, including steps to be taken when archaeological materials are

encountered during Project construction. To avoid impacts to cultural and historic resources to the maximum extent practicable, NYPA will adhere to the conditions contained in the Proposed Certificate Conditions attached as Appendix D and all other protective measures identified in the EM&CP.

5. Terrestrial Ecology & Wetland Impacts

38. The Proposed ROW is currently maintained in accordance with NYPA's Systemwide Long-Range Transmission Right-of-Way Vegetation Management Plan and Program ("SLTRVMP") for the majority of its length. This area is largely in early successional vegetation currently and would continue to be maintained in a similar manner upon completion of the Project. Following construction, the Project ROW will continue to be maintained in accordance with NYPA's SLTRVMP and any additional requirements for avoidance and minimization of Blanding's Turtles as outlined in the Certificate. Although, the Proposed ROW width and location was chosen to reduce impacts to the maximum extent practicable, some clearing along the ROW is anticipated. The Proposed ROW within the SUNY Canton campus would result in new clearing to a width of 250 feet. Phase Two will require clearing in the northern section of the line; the width of clearing will vary depending upon final structure height. In total for Phase One and Phase Two, the Applicant anticipates that approximately 85 acres will need to be cleared.

39. Wetland delineations were completed within and immediately adjacent to the Project area during 2015, 2016, 2017, and 2018. Following the submission of the Application, additional delineations were completed in those areas that could not be delineated prior to filing,

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including off-ROW access roads. The Project ROW and the proposed access roads traverse 324 wetlands. No wetlands were present within the areas proposed for the new 345 kV switchyard facilities, and therefore construction of the switchyards is not anticipated to have an impact on wetlands. Impacts to wetlands cannot be entirely avoided because of the size and nature of the Project. Permanent impacts are associated with structure foundations in state-regulated wetlands or wetland adjacent areas. The Project's permanent impacts to state-regulated wetlands and wetland adjacent areas are expected to be less than 0.2 acres, each. Project temporary impacts to state-regulated wetlands are associated with temporary construction matting used for work pads and 16'-wide access roads. Where existing established gravel access roads occur within wetland adjacent areas, Applicant may resurface these roads with gravel to improve their condition for construction; however, because these roads already exist, this is not an impact to wetland adjacent areas. The Project will result in less than a tenth of an acre of permanent forested wetland conversion impacts within NYSDEC-regulated wetlands due to the clearing of the ROW within the SUNY Canton reroute and minor additional clearing on off-ROW access roads. However, the Applicant will avoid and minimize impacts, to the maximum extent practicable, by adhering to the measures contained in the Proposed Certificate Conditions set forth in Appendix D of this Joint Proposal and the measures identified in the Project's EM&CP. For unavoidable impacts, mitigation is required. A wetland mitigation plan will be filed with the Commission in accordance with the Proposed Certificate Conditions set forth in Appendix D of this Joint Proposal.

40. One hundred and two (102) streams were identified during the Applicant’s survey, thirty (30) of which are considered “protected” streams (C[T] or higher). The Applicant will minimize impacts to protected streams by minimizing the number of streams crossed by access roads, by utilizing existing crossings as much as possible, not placing structures in streams, spanning across streams, and adhering to all other measures identified in the Proposed Certificate Conditions set forth in Appendix D of this Joint Proposal and the Project’s EM&CP.

41. In designing the Project, the Applicant will restrict ground disturbance in both the 100-foot adjacent areas around state-regulated wetlands, as well as within 50 feet of state-protected streams, by minimizing the placement of transmission structures, access roads, staging areas, and other facilities in these areas, where feasible.

42. NYPA conducted a survey of invasive species within the Project Area, which included the ROW and expanded areas around SUNY Canton, Moses Switchyard, and Adirondack Substation. The results of this survey were included in the Invasive Species Report submitted as an appendix to Exhibit 4 of the Application. NYPA will prepare an Invasive Species Plan in consultation with NYSDEC which shall ensure compliance with 6 NYCRR Part 575, and shall submit such plan with the EM&CP. NYPA shall seek NYSDEC’s acceptance of such Plan as part of NYSDEC’s comments on the EM&CP.

6. Impacts on Protected Wildlife and Plants

43. The New York Natural Heritage Program (“NYNHP”) identified several Federal and State protected threatened and endangered species in the vicinity of the Project, including the Indiana Bat (*Myotis sodalis*), Northern Long-eared Bat (*Myotis septentrionalis*), Blanding’s

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Turtle (*Emydoidea blandingii*), Eastern Sand Darter (*Ammocrypta pellucida*), Bald Eagle (*Haliaeetus leucocephalus*), Lake Sturgeon (*Acipenser fulvescens*), Eastern Pearlshell (*Margaritifera margaritifera*), Upland Sandpiper (*Bartramia longicauda*), and Iowa Darter (*Etheostoma exile*). Avoidance, minimization, and mitigation measures will be implemented in accordance with the Proposed Certificate Conditions set forth in Appendix D of this Joint Proposal and the EM&CP.

a. The Project is not anticipated to have any impact on the Indiana Bat, Northern Long-eared Bat, Bald Eagle, Upland Sandpiper, or their habitats.

b. Impacts to the Iowa Darter, Eastern Pearlshell, Lake Sturgeon, and the Eastern Sand Darter will be avoided through the implementation of soil erosion and sediment controls and the use of dry stream construction methods, to be included in the EM&CP.

c. Some Blanding's Turtle habitat will be impacted during Project construction due to the placement of structures and access roads within potential Blanding's turtle nesting habitats and potential and wetland habitats. Additionally, certain limited construction activities may result in the incidental take of individual Blanding's turtles, depending on the construction methodology and time of year work is conducted. A full description of the Blanding's Turtle habitat and survey efforts can be found in the Applicant's Article VII Application Exhibit 4, Appendix B, Blanding's Turtle Final Report, as well as in the *Blanding's Turtle Avoidance, Protection, and Net Conservation Benefit Plan*.

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d. The Applicant will adhere to the Blanding's Turtle protective measures identified in the Proposed Certificate Conditions and EM&CP, including the *Blanding's Turtle Avoidance, Protection and Net Conservation Benefit Plan*. The Applicant will comply with the substantive requirements of 6 NYCRR Part 182, including, but not limited to, the development of a mitigation plan which demonstrates how the Applicant will achieve a Net Conservation Benefit for Blanding's Turtle, as mutually agreed to by NYSDEC and NYPA. Measures taken to mitigate impacts to Blanding's Turtle wetland habitat could count toward wetland mitigation, so long as it is acceptable to the NYSDEC.

44. No threatened or endangered plant species were observed on the Proposed ROW or in off-ROW areas, therefore, it is anticipated that no impacts to threatened or endangered plant species would occur during construction of the Project. However, the two rare plant species observed in the Proposed Project area, Wiry Panic Grass and American Bittersweet, may potentially be impacted during construction. To mitigate any impact, prior to construction, NYPA will have a qualified biologist re-identify the populations in the field and will install fencing and signage around the areas to restrict access during construction.

7. Impacts on Topography & Soils

45. The Project is located between the Champlain Lowlands Section of the St. Lawrence Valley physiographic province and the Adirondack Mountains physiographic province. The Application identified potential limitations to development along the Proposed ROW, including a few isolated areas of steep slopes associated with stream and/or river valleys, and isolated areas of rock outcrops within the Frank E. Jadwin Memorial State Forest. These limitations and other topographical considerations will influence structure placement and foundation design but would not have a long-term effect on the integrity of the proposed structures.

46. Construction and operation of the Project is not expected to result in significant cumulative effects to topographic and soil conditions within the Project area due to the use of a previously disturbed ROW. Minor changes to topography will occur because of grading necessary to prepare work areas and access roads for construction. These access roads and work areas will be identified in the EM&CP.

47. Measures to minimize disturbing soils and topography along the Project and off-ROW access roads used by the Applicant will be specified in the EM&CP.

8. Transportation Impacts

48. The anticipated effects of Project construction and operation on airports, railroads, marine traffic, roadways, and pedestrian ways are described below. The Project will have no discernable permanent impact on these transportation systems.

49. With the exception of the Massena International-Richard Field Airport (“Massena Airport”) and the Hurlbut Field, there are no airports or heliports or private or public runways within five (5) miles of the Proposed ROW. The Applicant does not anticipate any impacts to Hurlbut Field. Due to Massena Airport’s proximity to the Proposed ROW, the Applicant performed an evaluation pursuant to the Federal Aviation Administration’s criteria enumerated in 14 CFR § 77.13 and determined that a Notice of Proposed Construction or Alteration will be required for certain structures. In addition, the 28 proposed structures within Massena Airport’s “horizontal surface” will be designed to minimize impacts to the airport.

50. The Project crosses three railroad corridors owned and operated by: New York & Ogdensburg Railway Co., CSX Transportation Inc., and Mohawk Adirondack & Northern Railroad Corp. The Project is not expected to impact the operation of these railroads. However, the Applicant will review the final designs and coordinate construction activities with the railroad companies. Any information applicable to construction will be included in the EM&CP.

51. The Proposed ROW crosses the St. Lawrence Seaway and the Wiley-Dondero Canal. The Project will receive approval under Section 10 of the Rivers and Harbors Act and is not expected to adversely affect either corridor.

52. The Project perpendicularly crosses approximately 66 state, county, and local roadways in St. Lawrence and Lewis Counties. NYPA will submit a Utility Work Permit Application for all applicable road crossings following final design of the Project, and a Maintenance and Protection of Traffic (“MPT”) Plan will be prepared as a component of the EM&CP in accordance with the Proposed Certificate Conditions in Appendix D of this Joint Proposal. The Applicant does not anticipate any discernable impact to traffic as a result of Project operation.

9. Noise Impacts

53. Based on NYPA’s audible noise analysis, the results of which were submitted with the Application, the sound associated with the operation of the 345 kV lines is equivalent to that generated by the existing 230 kV lines. During inclement weather the Project will emit operational noise that will be noticeable within the ROW due to the effects of corona on the Project. In addition, changes in audible noise levels resulting from the modifications at Moses Switchyard and Adirondack Substation would be minimal.

54. The construction of the Project will generate noise levels that are periodically audible along the ROW, access roads, structure sites, pulling stations, staging areas and laydown yards. Noise resulting from the operation of heavy equipment or other construction activities will be of a temporary nature.

55. Construction noise will be mitigated by the attenuating effect of distance, the presence of existing vegetation, the intermittent and short-lived character of the noise, and the

use of functional mufflers on all construction equipment. These measures will be addressed in the EM&CP.

10. Communications Impacts

56. The Applicant's review of Federal Communication Commission databases revealed that there are several registered communications antennas and/or towers within two kilometers of the Project centerline. As the Project is a rebuild of existing transmission lines, it is not expected to result in any significant interference with radio, television, cellular phone reception, railway signaling and communications, or microwave transmissions. In the event that interference with the communications is reported along the Proposed ROW, the Applicant will take appropriate action to address such interference.

57. The Applicant will comply with applicable provisions of the National Electrical Safety Code related to appropriate spacing between the proposed transmission lines and communication facilities and has designed the transmission lines to minimize corona effects. In addition, NYPA will follow the Call Before You Dig protocol and will contact potential third-party underground communication cable operators to confirm the locations of any underground communication facilities that would be within or crossed by the ROW.

11. Electric & Magnetic Fields

58. The geometry of the re-built MA1&2 Lines across a sample of typical cross-sections was analyzed to generate typical electrical and magnetic field levels for comparison with the required guidelines. For purposes of this study, seven proposed configurations were considered.

59. Under the standard set forth in Commission Opinion 78-13, the maximum electric field at the edge of the ROW shall not exceed 1.6 kV/m. The maximum electric field produced by the transmission lines at the ROW edge ranged from 0.45 kV/m to 1.42 kV/m for the various cross sections analyzed. Under the Commission’s September 11, 1990 Interim Policy Statement on Magnetic Fields, the peak field at the edge of the ROW corresponding to the “winter-normal conductor rating” shall not exceed 200 mG. The calculated magnetic field levels for the Project ranged from 67.3 mG to 149 mG at the edge of the ROW.

D. Availability and Impact of Alternatives

60. The Evidentiary Record describes the availability and impact of alternatives to the Project. These alternatives are briefly described below. Considering all factors, the Signatory Parties agree that the Project as described in Appendix B is preferable to any of the alternatives considered.

1. Alternative Routes

61. The Signatory Parties agree that with the exception of the one-mile segment of the Project on the SUNY Canton campus, the proposed route of the Project is preferable to any alternative route because the proposed route uses existing ROW and, hence, does not require the purchase of additional land or acquisition of additional easements. In addition, use of the

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existing ROW avoids the substantial near term and long-term environmental impacts and impacts on local communities.

62. Four alternatives were considered for the construction of the Project on the SUNY Canton campus: (1) the overhead route of the existing MA1&2 Lines through the campus; (2) underground construction along the same route; (3) a shorter re-route around the campus; and (4) a longer re-route around the campus, and off SUNY Canton property, adjacent to the MSU-1. The Signatory Parties agree that the shorter re-route is the preferable alternative. This route avoids the substantial adverse impacts to SUNY Canton's development plans of both the overhead and underground routes across the campus, as well as the substantially higher costs and constructability constraints of the underground route. Compared to the longer re-route around the campus, the shorter re-route has a lower cost and a substantially lower environmental impact due to the fact that the longer re-route would cross a substantial amount of wetlands and could impact a protected plant species, as well as property for which the Applicant does not have existing easement agreements.

63. The Signatory Parties agree that because the Project as proposed is primarily located within existing ROW, there is no need to acquire new ROW (except for the SUNY Canton reroute). Any such acquisition of new ROW would require acquisition of new property rights, thereby impacting additional landowners and would also involve substantial near-term and long-term environmental impacts and impacts on local communities.

2. Underground Alternative

64. The Signatory Parties have concluded that underground construction is not desirable due to physical limits on the length of underground AC transmission lines, as well as the substantial cost and associated environmental disruption that would result from underground installation of the Project along the existing ROW, which crosses many wetlands and endangered species habitats.

3. Alternative Methods to Fulfill Energy Requirements

65. The Signatory Parties agree that there are no alternative methods to fulfill energy requirements with comparable costs. The Signatory Parties also agree that there are no alternative methods to provide the increased transmission capability required to support the Clean Energy Standard, or to deliver Blackstart power from NYPA's St. Lawrence-FDR Power Project to other generating facilities following a major blackout.

66. The Signatory Parties also agree that the "no action" alternative is also not viable because the existing MA1&2 Lines are susceptible to failure due to age. Failure to rebuild the existing lines will lead to higher maintenance costs and decreased reliability.

E. Conformance of the Project to Long-Range Plans for Expanding the Electric Power Grid

67. The Project conforms to the requirements and planning objectives of the NYISO and is consistent with New York's long-range plans to expand its Bulk Electric System to be able to provide the transmission capability required in order to meet the goals of New York's Clean Energy Plan. Completion of the Project will improve the reliability of the transmission system,

avoid outages due to failures or necessary maintenance, and ensure that the MA1&2 Lines can continue to provide Blackstart services.

F. System Impact Study

68. Although 16 NYCRR § 88.4(a)(4) requires a system reliability impact study, the Commission’s September 17, 2018 Order Granting Waivers stated that the appropriate NYISO study for the Project is a System Impact Study (“SIS”). The SIS for Phase One, approved by the NYISO, stated that Phase One would not result in any violations of applicable reliability criteria under normal, peak or emergency conditions and also included steady state, dynamic and short circuit analysis of the Project and concluded that it would not adversely impact the reliable operation of the Bulk Power System.

69. In the September 17, 2018 Order Granting Waivers, the Commission also ruled that the Application was not incomplete absent submission of an SIS for Phase Two. The Commission held that when NYPA undertakes Phase Two, it must submit an updated SIS with its request to amend any certificate issued in this proceeding to allow the Project to operate at 345 kV.

G. State and Local Laws

70. The Signatory Parties agree that the Project, as proposed in this Joint Proposal, fully complies with the substantive provisions of all applicable state laws, including without limitation the PSL, the Public Authorities Law, the Environmental Conservation Law and the Agriculture and Markets Law.

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71. Exhibit 7 of the Application, as supplemented on June 19, 2018 (Exhibit 7 of the Evidentiary Record and referred to herein as “Exhibit 7”) identifies, for each local jurisdiction, every substantive local legal provision (ordinance, law, regulation, standard, and requirement) potentially applicable to the Project, as well as every such local legal provision that the Applicant requests that the Commission not apply because, as applied to the Project, such local legal provision is unreasonably restrictive in view of the existing technology, factors of costs or economics, or the needs of consumers. Except for those provisions the Applicant specifically requested that the Commission refuse to apply, the Applicant will comply with, and the location of the Project as proposed conforms to, all substantive local legal provisions that are applicable to the Project. Due to the preemptive effect of PSL §130, procedural requirements to obtain any approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply.

72. The following are examples of local laws that the Applicant requests the Commission not apply, as well as the corresponding justifications for such requests: (i) requirements concerning noise, odor emissions, exterior lighting and vibration, on the grounds that these impacts from construction operations are technically impossible or impracticable to limit to levels specified in the ordinances, and mitigation will be accomplished by the Project’s use of industry standard methods that muffle heavy equipment noise and emissions and that suppress the spread of dust and fly ash; (ii) prohibitions on sign placement near utility poles, on the grounds that the placement of warning and safety signs is warranted and appropriate to most effectively warn the general public of dangers associated with energized electrical equipment;

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(iii) minimum lot width, frontage, size, setbacks, lot depth, storage of equipment or flammable liquids, fencing or screening requirements, clearing, maintenance, grading and landscaping requirements, vegetation retention requirements, site plan review, road crossing requirements, permitted use or use permit or approval standards or requirements, and limits on the location of structures or the preservation of scenic vistas, because these requirements have no necessary nexus or relevance when considered in light of the Applicant's contiguous linear ROW lots; (iv) maximum structure height requirements, because compliance is technologically impossible; (v) shielding and/or screening requirements and prohibitions on cutting existing vegetation or the construction or reconstruction of erosion control structures, on the grounds that these requirements cannot be reconciled with the Clearing and Slash Disposal Procedures in the EM&CP and the Applicant's SLTRVMP; (vi) restrictions on permitted uses that do not include electric utilities or that limit the location of electric utility property, on the ground that such requirements would directly conflict with the location of the Project as approved in the Certificate (vii) prohibitions restricting the use of large trucks, ATVs and/or other off-highway vehicles, because the Applicant may require such vehicles to construct or access its lines outside of the designated hours to respond to an electrical emergency; (viii) provisions restricting the use of outdoor privies, because temporary use of privies may be required during construction; (ix) requirements that the Project comply with the National Electrical Code, the NYS Uniform Fire Prevention and Building Code, or the regulations of the National Board of Fire Underwriters, on the ground that the Project will comply with the National Electric Safety Code and the requirements of the Certificate; (x) provisions governing the location of poles, establishing time

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limits for removal of wires, poles and fixtures not in use or for delivery of new poles, on the ground that such requirements conflict with the staging requirements approved in the Certificate and the EM&CP; and (xi) provisions requiring that the municipality be granted the right to use the Applicant's poles, on the ground that such multiple uses are not appropriate for the towers comprising the Project.

73. The Applicant also requests that the Commission refuse to apply the following local law requirements to the extent that they conflict with the SPDES General Permit for Stormwater Discharge from Construction Activity, the Article VII Certificate or EM&CP approved for the Project: (i) requirements concerning anchoring, flooding and erosion control, drainage and the disposal of solid waste and recyclables, and control of insects and rodents; (ii) provisions governing construction materials and methods in areas of special flood hazard and the discharge of polluted waters into any natural outlet; (iii) provisions establishing safety requirements or requiring local approval of work sites; (iv) provisions limiting off-street parking or overnight parking on town roads or highways; (v) provisions regarding the placement of fill material or construction on steep slopes; (vi) provisions regulating the construction of private roads; (vii) limitations on hours of construction operations; (viii) construction standards for structures and improvements; (ix) regulations or prohibitions on the location of facilities in or near residential, open space or other specified areas; (x) provisions requiring the installation of toilet facilities and connection to public sewer systems; (xi) provisions regulating the disposal of chemicals, grease or oils; (xii) provisions governing zoning and land use control; (xiii) provisions establishing standards for traffic and vehicle access on private roads; (xiv)

requirements for the removal of weeds or other noxious plants; and (xv) restrictions on the type of concrete or other construction materials to be used.

74. No local jurisdiction has filed any objection to the Applicant's requests, set forth in Exhibit 7, that the Commission not apply specified local laws. The Signatory Parties agree that the justifications set forth in the Revised Exhibit 7 provide sufficient basis for the Commission to refuse to apply the identified ordinances.

H. Public Interest, Convenience and Necessity

75. The Applicant conducted public outreach regarding the Application, including letters to and meetings with local officials in areas affected by the Project, letters to property owners where there is access to the Project ROW, public open house meetings in the Towns of Massena, Canton and Harrisville, and meetings with groups interested in the Project. The Commission also held public statement hearings in the Towns of Croghan, Canton and Massena, at which comments were received from the public. Informational forums were held prior to each public statement hearing.

V. PROPOSED FINDINGS

76. The Signatory Parties agree that the record in this proceeding supports all of the Commission findings required by PSL § 126 and as set out in Appendix C to this Joint Proposal.

VI. PROPOSED CERTIFICATE CONDITIONS

77. The Signatory Parties agree that the Proposed Certificate Conditions set forth in Appendix D to this Joint Proposal are acceptable and appropriate for inclusion in a Certificate of

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Environmental Compatibility and Public Need authorizing construction and operation of the Project as described therein and in this Joint Proposal.

VII. ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN GUIDELINES

78. The Signatory Parties agree that the specifications for development of the EM&CP set forth in Appendices E and F of this Joint Proposal are acceptable and appropriate for application to the Project as described herein.

VIII. WATER QUALITY CERTIFICATION

79. The Signatory Parties agree that the record in this proceeding supports the water quality certification substantially in the form of Proposed 401 Water Quality Certification set forth in Appendix G to this Joint Proposal.

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IN WITNESS WHEREOF, the Signatory Parties to this Joint Proposal have this day signed and executed this Joint Proposal.




New York Power Authority
By: Mark Malone

Staff of the New York State Department of Public Service
designated to represent the public interest in this
proceeding
By: Heather P. Behnke, Esq.

New York State Department of Environmental
Conservation
By:

New York State Department of Agriculture & Markets
By:

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New York Power Authority
By:


Staff of the New York State Department of Public Service
designated to represent the public interest in this
proceeding
By: Heather P. Behnke, Esq.

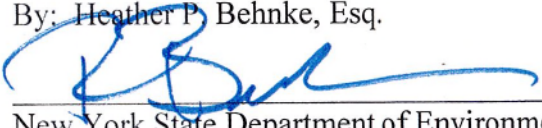
New York State Department of Environmental
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By:

New York State Department of Agriculture & Markets
By:

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By: Heather P. Behnke, Esq.



New York State Department of Environmental
Conservation
By: **Thomas BEEKMAN**

New York State Department of Agriculture & Markets
By:

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New York Power Authority

By:



Staff of the New York State Department of Public Service
designated to represent the public interest in this
proceeding

By: Heather P. Behnke, Esq.

New York State Department of Environmental
Conservation

By:



New York State Department of Agriculture & Markets

By: Tara B. Wells, Esq.

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**Case 18-T-0207
NYPA Smart Path Project**

**APPENDIX A
LIST OF TESTIMONY, AFFIDAVITS
AND EXHIBITS TO BE INCLUDED IN THE
RECORD OF THE PROCEEDING**

APPENDIX A
LIST OF TESTIMONY, AFFIDAVITS AND EXHIBITS
TO BE ADMITTED INTO THE RECORD

Testimony:

Direct Testimony of Hope E. Luhman, Ph.D., RPA; Wendy J. Jensen, Ph.D, CWB; Jonathan E. Busby; David G. Carr; Susan Davis; Daniel J. Herrmann; James B. Pippin; and Peter K. Zwagerman sponsoring Exhibits 1 through 9 (Exhibits 1 through 9 to the Application as supplemented in this proceeding (the “Application”)), Exhibits 10 through 15 (Exhibits E-1 through E-6 to the Application).

Affidavits:

Affidavits of Hope E. Luhman, Ph.D., RPA; Wendy J. Jensen, Ph.D, CWB; Jonathan E. Busby; David G. Carr; Susan Davis; Daniel J. Herrmann; James B. Pippin; and Peter K. Zwagerman.

Exhibits:

- Exhibit 1: The Application (including all Appendices thereto), and General Information (Exhibit 1 to the Application, along with the rest of the Application, which was originally filed on DMM on April 5, 2018)
- Exhibit 2: Location of Facilities (Exhibit 2 to the Application)*
- Exhibit 3: Alternatives (Exhibit 3 to the Application)
- Exhibit 4: Environmental Impacts (Exhibit 4 to the Application)*
- Exhibit 5: Design Drawings (Exhibit 5 to the Application)*
- Exhibit 6: Economic Effects of Proposed Facility (Exhibit 6 to the Application)
- Exhibit 7: Local Ordinances (Exhibit 7 to the Application)
- Exhibit 8: Other Pending Filings (Exhibit 8 to the Application)
- Exhibit 9: Cost of Proposed Facilities (Exhibit 9 to the Application)*
- Exhibit 10: Description of Proposed Transmission Facilities (Exhibit E-1 to the Application)
- Exhibit 11: Other Facilities (Exhibit E-2 to the Application)

*A redacted version of this Exhibit or filing (or portion thereof), which was provided confidentially, is provided on the Commission’s DMM at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=18-t-0207&submit=Search>. If the entirety of the Exhibit or filing was confidential, then the request for confidential treatment can be found on DMM at that same location.

** Redacted versions of certain of the DPS IR Responses, which were submitted confidentially, will be provided with the Joint Proposal public filing on the Commission’s DMM at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=18-t-0207&submit=Search>.

- Exhibit 12: Underground Construction (Exhibit E-3 to the Application)
- Exhibit 13: Engineering Justification (Exhibit E-4 to the Application)*
- Exhibit 14: Effect on Communications (Exhibit E-5 to the Application)
- Exhibit 15: Effect on Transportation (Exhibit E-6 to the Application)
- Exhibit 16: Responses to Information Requests DPS 1-01 through DPS 6-42**
- Exhibit 17: Responses to Information Requests DAM 1-01 through 1-06
- Exhibit 18: NYPA Letter Regarding SIS Report, filed by NYPA on April 5, 2018 (*available on DMM*)
- Exhibit 19: Revised Tile 10 of Exhibit 2, Figure 3, filed by NYPA on April 10, 2018 (*available on DMM*)
- Exhibit 20: NYPA's April 26, 2018 Additional Filing including confidential documentation supporting cost estimates* (*available on DMM*)
- Exhibit 21: Response to the Deficiency Letter issued by the Commission on May 9, 2018, filed by NYPA on June 19, 2018* (*available on DMM*)
- Exhibit 22: Revised Figure 2-1, filed by NYPA on August 3, 2018 (*available on DMM*)
- Exhibit 23: NYPA's October 3, 2018 Supplemental Filing including Supplemental Blanding's Turtle Habitat Assessment, Supplemental Invasive Plant Species Survey and Supplemental Aquatic Resource Delineation* (*available on DMM*)
- Exhibit 24: Letter from SHPO regarding Phase IB Addendum Archaeological Survey, filed by NYPA on March 26, 2019 (*available on DMM*)
- Exhibit 25: Phase IB Addendum Archaeological Survey for NYPA Smart Path Access Roads, filed by NYPA on March 27, 2019 (Redacted)* (*available on DMM*)
- Exhibit 26: Description of Laydown Yards (Redacted)

*A redacted version of this Exhibit or filing (or portion thereof), which was provided confidentially, is provided on the Commission's DMM at <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=18-t-0207&submit=Search>. If the entirety of the Exhibit or filing was confidential, then the request for confidential treatment can be found on DMM at that same location.

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**Case 18-T-0207
NYPA Smart Path Project**

**APPENDIX B
DESCRIPTION AND LOCATION OF THE PROJECT**

A. The Applicant’s Existing MA1&2 Lines

The Applicant’s existing MA1&2 Lines consist of approximately eight (8) miles of double-circuit lattice structures (the “First Eight Miles”) and approximately seventy-eight (78) miles of single-circuit predominantly wood H-frame structures operating at 230 kV. These lines occupy a 250-foot wide ROW and travel through twelve (12) towns from north to south including Massena, Louisville, Norfolk, Madrid, Potsdam, Canton, Russell, Hermon, Edwards, and Pitcairn in St. Lawrence County, and Diana and Croghan in Lewis County. The MA1&2 Lines also cross the Village of Canton in St. Lawrence County. In addition, approximately 1.8 miles of the ROW of the MA1&2 Lines is located in the Adirondack State Park.

The MA1&2 Lines start at the Applicant’s Moses Switchyard in the Town of Massena. From there, the MA1&2 Lines traverse south for approximately 1.9 miles, crossing the St. Lawrence River, Barnhart Isle, and the Wiley-Dondero Canal, co-located with certain existing National Grid 115 kV electric transmission lines, in a 250-foot-wide ROW. The MA1&2 Lines then run in a west-southwest direction for approximately 3.5 miles while co-located with the National Grid 115 kV lines before turning to the north and then west to bypass the Alcoa Substation and the Massena Energy Project Substation (approximately 1.6 miles). The MA1&2 Lines then turn in a west-southwest direction before crossing the Massena Power Canal and continuing for approximately 2.1 miles until entering the Town of Louisville. The MA1&2 Lines continue in a west-southwest direction for approximately 1.8 miles and cross County Route 41 before turning southwest and co-locating again with National Grid’s 115 kV lines for an additional 3.6 miles, crossing State Highway 37 and the Grasse River. From there, the MA1&2 Lines begin to parallel NYPA’s Massena – Marcy 765 kV electric transmission line (“MSU-1”) and run in a southwest direction for another 3.1 miles until crossing into the Town of Norfolk.

The co-located ROWs (National Grid 115 kV, MSU-1 and MA1&2) continue in a southwest direction for approximately 2.4 miles within the Town of Norfolk. At this point, co-location with National Grid’s 115 kV line ends. The co-located MSU-1 and MA1&2 Lines continue in a southwest direction for approximately 6.8 miles within the Town of Madrid, including 1.1 miles within the Sodom State Forest. The MSU-1 and MA1&2 Lines continue southwest through the Town of Potsdam for an additional 4.7 miles and enter the Town of Canton. The MSU-1 and MA1&2 Lines run to the southwest through the Town of Canton for approximately 3.6 miles, cross into the Village of Canton on the same route for approximately 0.6 mile, and cross the Grasse River.

After crossing the Grasse River in the Village of Canton, the MA1&2 Lines run directly through the center of the SUNY Canton campus. South of the SUNY Canton campus, the MA1&2 Lines

continue to the southwest in the Town of Canton for approximately 0.6 miles, crossing State Highway 68, then co-locating again with the MSU-1 ROW. The co-located ROW continues to the south for approximately 6.9 miles within the Town of Canton. Then the co-location with the MSU-1 ROW ends as the MA1&2 Lines continue in a southwest direction for approximately 0.9 miles in the Town of Canton then 1.2 miles in a southeast direction in the Town of Russell. The MA1&2 Lines then again co-locate with the MSU-1 ROW, continuing in a southerly direction for approximately 4.8 miles within the Town of Russell. The co-located ROW makes a slight shift to the southwest as it exits the Town of Russell for approximately 0.8 miles then crosses through the southeast corner of the Town of Hermon for approximately 1.4 miles. The co-located ROW traverses the Town of Edwards for 0.2 miles before the co-location with the MSU-1 ROW ends.

The MA1&2 Lines continue to the southwest within the Town of Edwards for approximately 4.0 miles before turning southeast for another approximately 3.9 miles, including approximately 0.2 miles within the Bonner Lake State Forest. The MA1&2 Lines turn south and southwest again for approximately 0.7 miles as the ROW exits the Town of Edwards, including approximately 0.1 miles of Cold Spring Brook State Forest on the border of the Town of Edwards and the Town of Pitcairn. The MA1&2 Lines continue in a southwest direction for approximately 3.2 miles, including approximately 0.4 miles in Cold Spring Brook State Forest at the crossing into the Town of Pitcairn, then west-southwest direction for approximately 2.3 miles within the Town of Pitcairn. The MA1&2 Lines then turn to the south-southeast along the western side of the Adirondack State Park for approximately 0.6 mile, crossing State Route 3. Co-location with the MSU-1 ROW begins again here and continues for approximately 2.0 miles along the western side of the Adirondack State Park before exiting St. Lawrence County and entering the Town of Diana in Lewis County. The co-located ROW continues for 0.8 miles within the Town of Diane then co-location stops for approximately 1.2 miles as the MA1&2 Lines enter the Adirondack State Park.

The Proposed ROW crosses through the western edge of the Adirondack State Park for approximately 1.9 miles. Approximately 0.5 miles south of the Adirondack State Park, in the Town of Diana, the MA1&2 Lines again co-locate with the MSU-1 ROW. The co-located ROW continues to the south-southwest for approximately 1.2 miles before crossing into the Frank E. Jadwin Memorial State Forest. The co-located ROW traverses the State Forest for approximately 1.6 miles within the Town of Diana and approximately 1.4 miles within the Town of Croghan, before turning south within the State Forest for an additional approximately 2.4 miles. To the south of the State Forest, the co-located ROW continues for approximately 3.6 miles before turning southwest for approximately 1.1 miles and terminates at the Adirondack Substation located on the south side of Effley Falls Road (County Route 10).

B. Phase One Of The Proposed Project

The Signatory Parties agree that the Project should be re-built in two phases. Phase One will involve rebuilding approximately 78 miles of single-circuit predominantly wood pole H-frame structures with two sets of single-circuit steel monopoles. In addition, as part of Phase One NYPA will also replace the existing shield wire on the first 8 miles of the MA1&2 Lines with

optical ground wire (“OPGW”) cable. These facilities will be designed to operate at 345 kV but would be operated at 230 kV until the completion of Phase Two.

With the exception of the approximately one-mile portion of the MA1&2 Lines located on campus of the State University of New York at Canton (“SUNY Canton”) in Canton, New York, the Signatory Parties agree that Phase One of the Project should be constructed entirely within the existing 250-foot ROW described above. On the SUNY Canton campus, the Project would be rerouted to the west, between the western side of the SUNY Canton campus and the existing MSU-1 ROW. SUNY Canton owns the land required for this routing change and has agreed to provide NYPA with a ROW across this state-owned land in exchange for NYPA’s release of its ROW through the center of the SUNY Canton campus.

C. Phase Two Of The Proposed Project

The Signatory Parties agree that Phase Two of the Project will involve rebuilding the eight miles of existing double-circuit steel lattice structures beginning at the Moses Switchyard and the 0.4 miles of single-circuit steel lattice structures into Adirondack Substation with single-circuit steel monopoles, as well as the construction of new 345 kV switchyards at the Moses Switchyard and the Adirondack Substation. Upon completion of Phase Two, which will be coordinated with a similar upgrade of National Grid’s Adirondack to Porter 230 kV line to 345 kV, the Project will operate at 345 kV.

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APPENDIX C
PROPOSED COMMISSION FINDINGS

Case 18-T-0207

**APPENDIX C
PROPOSED COMMISSION FINDINGS**

1. Based on the information provided in the Record Exhibits 2, 3, 10, 13, 19 and 22, sponsored by J. Pippin (Haley & Aldrich), S. Davis (WSP, formerly known as Louis Berger), D. Carr (Burns & McDonnell), D. Herrmann (NYPA) and J. Busby (Burns & McDonnell), the existing 230 kV Moses-Adirondack 1&2 (“MA1&2”) transmission lines owned and operated by the New York Power Authority (“NYPA”) are needed to deliver electricity from Northern New York, including carbon-free hydroelectric power from Canadian sources and from NYPA’s St. Lawrence-FDR Power Project, to the rest of New York State and to provide a path for hydroelectric power from the St. Lawrence Facility to provide Blackstart services required by the New York Independent System Operator, Inc. (“NYISO”) for the rapid restoration of the Bulk Electric System in New York State in the event of a blackout.
2. Based on the information provided in the Record Exhibits 5, 10 and 13, sponsored by D. Carr (Burns & McDonnell) and D. Herrmann (NYPA), the rebuilding of approximately 78 miles of wooden H-frame structures and associated conductors on the MA1&2 Lines originally installed in 1942 with new steel monopoles and new conductors designed to operate at 345 kV (“Phase One of the Project”) is needed to make those lines more robust, less susceptible to failure and to reduce both maintenance requirements and outages of those existing facilities, as well as to permit the MA1&2 Lines to be upgraded to 345 kV upon the completion of Phase Two of the Project.
3. Based on the information provided in the Record Exhibits 3, 5, 6, 10 and 13, sponsored by D. Herrmann (NYPA), J. Busby (Burns & McDonnell), D. Carr (Burns & McDonnell) and S. Davis (WSP, formerly known as Louis Berger), the rebuilding of the eight miles of existing double-circuit steel lattice structures beginning at the Moses Switchyard and the 0.4 miles of single-circuit steel lattice structures into the Adirondack Substation with single-circuit steel monopoles, as well as the construction of new 345 kV switchyards at the Moses Switchyard and the Adirondack Substation (collectively, “Phase Two of the Project”), is needed to provide the increased transmission capacity from Northern New York to other parts of the state that will be required in the future for the development of the substantial amounts of new renewable generation in Northern New York required to meet New York’s ambitious Clean Energy Standard.
4. Based on the information provided in the Record Exhibits 2, 3, 4, 5, 6, 10, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25 and 26, sponsored by J. Busby (Burns & McDonnell), W. Jensen (ESI), H. Luhman (WSP, formerly known as Louis Berger), S. Davis (WSP, formerly known as Louis Berger), J. Pippin (Haley & Aldrich), D. Herrmann (NYPA), D. Carr (Burns & McDonnell) and P. Zwagerman (NYSTEC), the Project will be designed, constructed and operated in a manner that avoids, minimizes or mitigates impacts on

environmental resources along the Project's Right-of-Way ("ROW"). The nature of the probable environmental impacts resulting from the Project includes:

- a) temporary disturbance and inconvenience, including noise and traffic, associated with construction activities;
 - b) maximum calculated electromagnetic fields at the edge of the ROW that comply with the Commission's policies regarding electromagnetic fields;
 - c) Blanding's turtle habitat will be impacted during Project construction due to the placement of structures and access roads within potential habitat, but NYPA will avoid, minimize, and mitigate those impacts so that the Project results in a net conservation benefit to the Blanding's turtle;
 - d) clearing along the rerouted portions of the ROW and in the northern section of ROW during Phase Two, however the amount of clearing required has been minimized through the use of existing ROW;
 - e) temporary impacts to active agricultural lands, but the Project will return land previously occupied by transmission structures to active agricultural use; and
 - f) temporary and permanent impacts to wetlands that will be appropriately mitigated for if necessary.
5. Based on the information provided in the Record Exhibits 2, 3, 4, 5, 6, 10, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25 and 26, sponsored by J. Pippin (Haley & Aldrich), S. Davis (WSP, formerly known as Louis Berger), D. Carr (Burns & McDonnell), J. Busby (Burns & McDonnell), W. Jensen (ESI), H. Luhman (WSP, formerly known as Louis Berger), D. Herrmann (NYPA) and P. Zwagerman (NYSTEC), the Project represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives and other considerations. By using the existing ROW, except for a one-mile reroute around the State University of New York at Canton campus made at the school's request, and by providing in Phase One for the future upgrade of the MA1&2 Lines to 345 kV without further construction along the 78 miles of the MA1&2 Lines rebuilt in Phase One, the impacts of the Project on agricultural lands, visual resources, terrestrial ecology, wildlife, water resources, topography and soils, parklands, transportation, noise, communications and electromagnetic fields, have been minimized.
6. Based on the information provided in Record Exhibits 4 and 17, supported by the testimony of J. Busby (Burns & McDonnell), W. Jensen (ESI), S. Davis (WSP, formerly known as Louis Berger), H. Luhman (WSP, formerly known as Louis Berger) and J. Pippin (Haley Aldrich), the Project represents the minimum adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in Section 301 of the Agriculture and Markets Law, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property.
7. Based on the information provided in the Record Exhibits 3 and 16, sponsored by D. Herrmann (NYPA) and J. Busby (Burns & McDonnell), no portion of the Project should be constructed underground due to the substantially higher cost, adverse impacts on system operations, and far greater environmental impacts of underground construction in

the Project ROW, which crosses a large number of wetlands as well as habitat for rare, threatened and/or endangered species.

8. Based on the information provided in the Record Exhibits 6, 13 and 18, sponsored by S. Davis (WSP, formerly known as Louis Berger) and D. Herrmann (NYPA), the Project conforms to the requirements and planning objectives of the NYISO and is consistent with NYPA's long-range plans for the expansion of its transmission facilities and will serve the interests of electric system economy and reliability.
9. Based on the information provided in the Record Exhibits 7 and 8, sponsored by J. Pippin (Haley & Aldrich), the location of the Project as proposed conforms to the substantive provisions of applicable state and local laws and regulations issued thereunder, except for those local laws and regulations that the Commission refuses to apply because it finds, based on the justifications set forth by NYPA in Exhibit 7, that as applied to the Project, those provisions are unreasonably restrictive in view of existing technology, or factors of cost or economics, or the needs of consumers whether located inside or outside of a respective municipality.
10. Based on the entire record as listed in Appendix A, the Project will serve the public interest, convenience and necessity.

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NYPA Smart Path Project**

**APPENDIX D
PROPOSED CERTIFICATE CONDITIONS
AND MONITORING REQUIREMENTS**

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

PROPOSED CERTIFICATE CONDITIONS

A. Conditions of the Order

The Commission orders:

1. Subject to the conditions set forth in this Order, the New York Power Authority (“NYPA” or the “Certificate Holder”) is granted a Certificate of Environmental Compatibility and Public Need (the “Certificate”), pursuant to Article VII of the New York Public Service Law (“PSL”), authorizing the Certificate Holder to construct and reconstruct, operate and maintain approximately 86 miles of electric transmission lines and new 345 kV switchyards at the existing Moses Switchyard and at the Adirondack Substation in Lewis and St. Lawrence Counties, specifically, in the Towns of Massena, Louisville, Norfolk, Madrid, Potsdam, Canton, Russell, Hermon, Edwards, Pitcairn, Diana and Croghan and the Village of Canton (the “Smart Path Project” or the “Project”).
2. The Certificate Holder shall, within thirty (30) days after the issuance of the Certificate, file with the Secretary to the Commission (the “Secretary”) either a petition for rehearing or a verified statement that it accepts and will comply with the Certificate for the Project. Failure of the Certificate Holder to comply with this condition shall invalidate the Certificate.
3. If the Certificate Holder decides not to commence construction of any portion of the Project, it shall so notify the Secretary in writing within thirty (30) days of making such decision and shall serve a copy of such notice upon all parties in the same manner and at the same time as it files with the Secretary.
4. If construction of the Project hereby certified is not commenced within 18 months after the issuance of the Certificate, the Certificate may be vacated by the Commission with notice to the Certificate Holder. Commencement of construction of any segment of the Project, as defined in the Environmental Management & Construction Plan (“EM&CP”), shall satisfy this requirement.
5. Except for the deadlines in Certificate Conditions 2 and 34(h), the Secretary may extend any deadlines established by this Order for good cause shown.

B. Description and Location of Project

6. Appendix B of the Joint Proposal, entitled “Description and Location of Project,” identifies the components of the Project. The proposed location of the Project as set forth in Appendix B is approved.

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

C. Laws and Regulations

7.
 - a. Each substantive federal, state, and local law, regulation, code, and ordinance applicable to the Project shall apply, except to the extent that the Commission has expressly refused to apply any substantive local law or regulation as being unreasonably restrictive as discussed herein.
 - b. Except as expressly authorized in these Certificate Conditions, no State or municipal legal provision purporting to require any approval, consent, permit, certificate or other condition for the construction or operation of the Project authorized by the Certificate (collectively, "State or municipal approvals") shall apply, except (i) those of the PSL and regulations and orders adopted thereunder, (ii) those provided by otherwise applicable state law for the protection of employees engaged in the construction and operation of the Project, (iii) those permits issued under federally- delegated or federally-approved environmental permitting programs; and (iv) those municipal approvals expressly authorized in these Certificate Conditions.
 - c. The Certificate Holder shall construct the Project in a manner that conforms to all applicable standards of the American National Standards Institute ("ANSI") including, without limitation, the National Electrical Safety Code ("NESC"), Institute of Electrical and Electronics Engineers ("IEEE"), Standard IEEE C2-2012, 2012 Edition, and any stricter standards adopted by the Certificate Holder. Upon completion of the Project, the Certificate Holder shall send a letter to the Secretary certifying that the Project was constructed in full conformance with the NESC.
8. The Certificate Holder's maintenance of the Project will be in accordance with the Certificate Holder's Systemwide Long-Range Transmission Right-of-Way Vegetation Management Plan and Program ("SLTRVMP"), as it may be amended from time to time.
9.
 - a. The Certificate Holder shall coordinate all work on the Project during construction at state and municipal road and highway crossings with the appropriate state and municipal officials and shall obtain the required authorization for such work, subject to the Commission's continuing jurisdiction as appropriate.
 - b. The Certificate Holder shall coordinate with the appropriate municipal agencies and police departments for traffic management of roads under municipal jurisdiction.
 - c. A copy of each permit or approval received by the Certificate Holder from the issuing agencies, including all necessary United States Army Corps of Engineers ("USACE") permits for construction in Waters of the U.S. affected by the Project pursuant to

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

Section 404 of the Federal Clean Water Act and Section 10 of the Rivers and Harbors Act (33 U.S.C. 401 et seq.), and the State Pollutant Discharge Elimination System (“SPDES”) General Permit for Stormwater Discharge from Construction Activity (“SPDES General Permit”), shall be provided to the Secretary by the Certificate Holder promptly after receipt by the Certificate Holder of such permit or approval and before commencement of construction across any affected area.

10. If the Certificate Holder believes that any action taken, or determination made, by a State or municipal agency in connection with this Certificate is unreasonable or unreasonably delayed, it may petition the Commission, upon reasonable notice to that agency, to seek a resolution of any such unreasonable or unreasonably delayed determination. Such agency may respond to the petition, within five (5) business days, to address the reasonableness of any requirement or delay.

D. Public Health and Safety

11. The Certificate Holder shall design, engineer and construct the Project such that operation thereof shall comply with the electric field standard of a maximum of 1.6 kV/m at the edge of the right-of-way (“ROW”), one meter above ground level, with the line at rated voltage as established by the Commission in Opinion No. 78-13, issued June 19, 1978, and with the requirements for magnetic fields established by the Commission in its Statement of Interim Policy on Magnetic Fields of Major Electric Transmission Facilities, issued September 11, 1990.
12. The Certificate Holder shall engineer and construct the Project so as to be fully compatible with the operation and maintenance of nearby electric, gas, telecommunication, water, sewer, and related facilities. Details of such other facilities and measures to protect the integrity, operation, and maintenance of those facilities shall be presented in the EM&CP. The Certificate Holder shall design and construct the Project so as to avoid adverse effects on the cathodic protection system and physical conditions of existing structures and any fuel gas pipelines within the Project ROW and within 25 feet of the edge of the ROW. The Certificate Holder shall provide the details and design measures that will be implemented to protect nearby facilities and structures in the EM&CP.
 - a. The EM&CP shall provide a comprehensive gas safety plan which will discuss the issues listed below:
 - i. crossing method;
 - ii. survey marking;
 - iii. who, how and when construction activities will be limited; and,
 - iv. safety training requirements.

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

13. The Certificate Holder shall keep local fire department and emergency management teams apprised of any on-site hazardous chemicals and waste. All such chemicals and waste shall be secured in a locked and controlled area.
14. Certificate Holder shall notify New York State Department of Public Service (“DPS”) Staff and the New York State Department of Environmental Conservation (“NYSDEC”), in accordance with applicable NYSDEC regulations and guidance, if it learns of any fuel or chemical spill.
15. The Certificate Holder shall comply with the requirements for the protection of underground facilities set forth in 16 NYCRR Part 753, entitled “Protection of Underground Facilities.”
16. The Certificate Holder shall take appropriate measures to minimize fugitive dust and airborne debris from Project construction activity. Exposed soils and roadways shall be wetted as needed during extended dry periods to minimize dust generation. To the extent practicable, water for dust control shall come from municipal water supplies/sources. If surface waters are used, equipment (such as intake hoses) used in collecting water for dust control shall be disinfected afterwards.
17. The Certificate Holder shall ensure that parking for Project construction workers shall be in designated areas which do not interfere with normal traffic, cause a safety hazard, or interfere with existing land uses. These parking areas shall be designated in the EM&CP.
18. The Certificate Holder shall avoid direct disturbance to properties by accessing the Project ROW from existing roadways or off-ROW access roads listed in the EM&CP.
19. The Certificate Holder shall implement a Maintenance and Protection of Traffic (“MPT”) plan that identifies procedures to be used to maintain traffic and to provide a safe construction zone for those activities within the roadway ROW. The MPT plans shall address temporary signage, lane closures, placement of temporary barriers, and traffic diversion. The Certificate Holder shall ensure that:
 - a. All signage utilized shall comply with the New York State Department of Transportation (“NYSDOT”) Manual of Uniform Traffic Control Devices. Placement of signs shall be determined in consultation with the jurisdictional agency. At a minimum, signs shall be placed at the following distances:
 - i. Signs announcing construction at 500 feet and 1,000 feet; and
 - ii. Signs depicting workers at 300 feet.
 - b. Flagmen shall be present at all times when equipment is crossing any public road, when equipment is being loaded or unloaded from a vehicle parked on a

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

public road, and where two-lane traffic has been reduced to one lane. All flagging operations shall comply with 17 NYCRR Part 131.

20. To the extent required in connection with the delivery of oversized components for the Project, the Certificate Holder or its suppliers shall obtain any required permits from applicable agencies.

E. Environmental Management and Construction Plan

21. The terms of this Certificate and the environmental protection measures contained in the Application shall be incorporated into the EM&CP.

22. A final NYSDEC-approvable Storm Water Pollution Prevention Plan (“SWPPP”) shall be prepared as part of the State Pollutant Discharge Elimination System General Permit for Construction Activities and in accordance with the current New York State Standards and Specifications for Erosion and Sediment Control (“NYSSDESC”). In addition to the general requirements contained in the Blue Book, the SWPPP shall include the following protocols:

- a. To minimize the risk of introducing invasive species, use of hay bales is strictly prohibited; and
- b. All erosion control fabric or netting must be 100% biodegradable natural product, excluding geotextiles used for road construction and temporary erosion control devices such as silt fence and silt sock.

23.

- a. The Certificate Holder shall include the SWPPP and NYSDEC’s letter of acknowledgement for the Project authorized under the SPDES General Permit in the EM&CP. The Certificate Holder shall develop the EM&CP for the Project in accordance with the SWPPP requirements in NYSDEC’s then-effective SPDES General Permit.
- b. The Certificate Holder shall install temporary erosion control devices (e.g., silt fence, straw bales and structural diversions) early in the construction process or by the end of the work day for newly disturbed areas, as indicated in the EM&CP.
- c. Special conditions and erosion and sedimentation controls with respect to the Project shall be prescribed on the EM&CP Plan and Profile drawings.

24. Upon completion of the Project, the Certificate Holder shall conduct its routine vegetation maintenance in accordance with its SLTRVMP.

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

25. Applicable provisions of the Certificate, the approved EM&CP, and orders approving the EM&CP shall be accommodated in any design, construction, operation, or maintenance associated with the Project.
26. If the Certificate Holder includes in the EM&CP any environmental protection or mitigation measure(s) not set forth in Exhibit 4, Appendix I, NYPA's Best Management Practices ("EM&CP Best Practices Manual"), the Certificate Holder shall also include with the EM&CP a listing of each such measure, where the Certificate Holder proposes to use such measure, and an explanation as to why the Certificate Holder selected that measure rather than a measure included in its EM&CP Best Practices Manual.
27. The Certificate Holder, in preparing the EM&CP, shall consult with each transportation department or agency normally having jurisdiction over any roads in the vicinity of the Project, which roads will be crossed by the certified transmission facilities or used for direct access to the Project ROW. If the access road takes direct access from, or lies within the limits of, such roads, the Certificate Holder shall notify each relevant transportation department or agency of the approximate date when work on the Project will begin.
28. Before the preparation of the EM&CP, the Certificate Holder shall contact the NYSDEC, NYS Natural Heritage Program and United States Fish and Wildlife Service to check for any updates or changes of known species of special concern threatened or endangered ("T&E") species or habitat of Significant Natural Communities in the Project area and include the responses in the EM&CP.
29. The Certificate Holder shall provide, as a part of the EM&CP:
 - a. A final design plan that conforms with the Project design set forth in the Certificate, applicable federal, state and local requirements, including, but not limited to, applicable regulations promulgated by NYSDEC, the New York State Office of Parks, Recreation & Historic Preservation ("OPRHP"), the New York State Department of Agriculture & Markets ("NYSDAM"), the Commission, the Bureau of Alcohol, Tobacco and Firearms, the Occupational Safety and Health Administration, the NYS Department of Labor, and local government chemical and waste-storage use and handling regulations; and
 - b. A discussion of the status of efforts by the Certificate Holder to obtain permits necessary for construction of the Project from Federal agencies (such as the USACE) and State agencies with federally-delegated authority.
 - c. The URL address for the Certificate Holder's website containing Project information.

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

30. The Certificate Holder may construct the Project in a manner that deviates from the certificated centerline, design height, location, number of structures, and structure types specified in Appendix B for appropriate environmental or engineering reasons, except where a conflict with a provision of the Certificate would be created. When proposing any such deviation, the Certificate Holder shall include in the EM&CP an explanation for the proposed deviation and supporting documentation.
31. The Certificate Holder shall not begin site preparation or construction (except for surveying, soils testing, and such other related activities as are necessary for preparation of the final design plans), nor shall it commence any proceedings under the Eminent Domain Procedure Law to acquire permanent ROW, temporary ROW, or off-ROW access until the Commission has approved the EM&CP. To calculate the three-year period for acquisition of property pursuant to the Eminent Domain Procedure Law, the date of Commission approval of the EM&CP covering the affected parcel shall be regarded as the date on which this Article VII proceeding was completed. Notwithstanding the foregoing provisions of this paragraph, NYPA is hereby authorized upon approval of these Certificate Conditions by the Commission to: (1) prepare the laydown yards described in Record Exhibit 26 as set forth in Appendix A to the Joint Proposal for use as laydown yards for the Project, and to use them for such purpose; and (2) erect any exclusionary fencing required to work in Blanding's turtle habitat in accordance with the Certificate Condition 89.
32. The Certificate Holder shall file the proposed EM&CP with the Commission in the manner directed by the Secretary and, unless otherwise directed by the Secretary, shall serve it as follows: two electronic copies on the staff of the NYSDEC Central Office in Albany; one electronic copy and one hard copy on the Region 6 office of the NYSDEC; one electronic copy on the staff of NYSDAM; one electronic copy on the Region 7 office of the NYSDOT; one electronic copy on any other New York State agency (and its relevant regional offices) that requests the document; and one searchable electronic copy on the active parties on the service list who request the document. Service upon State agencies shall be performed at or prior to the time of filing with the Secretary. The Certificate Holder shall also place one hard copy and one electronic copy for inspection by the public at the same public library or libraries where the Application has been made available.
33. Contemporaneously with filing and serving the proposed EM&CP, the Certificate Holder shall disseminate, in the manner specified below, a written notice, in language reasonably understandable to the average person, that the proposed EM&CP has been filed (the "EM&CP Filing Notice").
 - a. Certificate Holder shall serve a copy of the EM&CP Filing Notice on all parties to this proceeding (except those upon whom the foregoing paragraph requires the Certificate Holder to serve one or more copies of the proposed EM&CP), on

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

all persons required to be served with the Application by statute or regulation, and on all persons from whom property rights are required.

- b. The Certificate Holder shall include a copy of the EM&CP Filing Notice in the proposed EM&CP.
 - c. The Certificate Holder shall publish a copy of the EM&CP Filing Notice in a newspaper or newspapers of general circulation in the vicinity of the Project.
34. The EM&CP Filing Notice required for the proposed EM&CP shall contain, at a minimum, the following:
- a. a statement that the proposed EM&CP has been filed;
 - b. a general description of the certified Project, the need for the Project, and the proposed EM&CP;
 - c. the EM&CP Filing Notice served on identified persons with a record interest in property to be acquired, as described in the proposed EM&CP, shall be accompanied by a description of the type of property rights required for the Project with respect to such property;
 - d. a listing of the locations and the website URL(s) where the proposed EM&CP is available for public inspection;
 - e. a statement that any person desiring additional information about a specific geographical location or specific subject may request it from the Certificate Holder;
 - f. the name, address, toll-free telephone number, and telephone number of an appropriate representative of the Certificate Holder;
 - g. the e-mail address and postal address of the Secretary; and
 - h. a statement that any person may be heard by the Commission on any matter or objection regarding the proposed EM&CP by filing written comments with the Secretary and the Certificate Holder within 30 days of the date the proposed EM&CP was filed with the Commission, or within 30 days of the date of the newspaper publication of a copy of the EM&CP Filing Notice, whichever is later.
35. A certificate of service indicating upon whom all copies of the EM&CP Filing Notice were served shall be filed by the Certificate Holder with the Secretary within three (3) business days after the time the proposed EM&CP is filed, and shall be a condition precedent to approval of the proposed EM&CP. When available, proof of newspaper

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

publication of a copy of the EM&CP Filing Notice, including a copy of such notice, shall be filed with the Secretary.

36. After the EM&CP has been approved by the Commission:
 - a. If the Certificate Holder desires to make any changes to the approved EM&CP, the Certificate Holder shall report such proposed changes to DPS Staff. DPS Staff will refer any proposed changes that will not result in substantial increase in adverse environmental impact or are not directly related to contested issues decided by the Administrative Law Judge or the Commission during the proceeding to the Chief of the Environmental Certification and Compliance Section for approval. DPS Staff will refer all other proposed changes to the Commission for approval.
 - b. Upon being advised that DPS Staff will refer a proposed change to the Commission, the Certificate Holder shall notify all parties to the proceeding, as well as property owners and lessees whose property is affected by the proposed change. The notice shall: (1) describe the original conditions and the requested change; (2) state that documents supporting the request are available for inspection at specified locations; and (3) state that persons may comment by writing or calling (followed by written confirmation) to the Commission within twenty-one (21) days of the notification date. Any delay in receipt of written confirmation will not delay Commission action on the proposed change.
 - c. The Certificate Holder shall not execute any proposed change until the Certificate Holder has received oral or written approval, except in emergency situations threatening personal injury, property, or severe adverse environmental impact. Any oral approval from DPS Staff will be followed by written approval from the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas and Water or the Commission.

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

F. Notices and Public Complaints

37.

- a. Until notice of Project completion is provided to the Secretary as provided in Certificate Condition 7(c), the Certificate Holder shall make available to the public a toll-free or local phone number of an agent or employee who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project. That number shall include a recorded outgoing message that will, when a call is not answered by a person, provide the caller with the name of the Certificate Holder's representative as well as: (i) the number to be called at any time in case of emergency; (ii) the phone number and email address of the Secretary; and (iii) the phone number of the DPS Environmental Certification and Compliance Section in the Office of Electric, Gas and Water.
- b. The Certificate Holder's Project website shall provide a means for the public to register complaints, ask questions, etc., either through a direct link to a complaint form/email or by providing the contact information (phone and/or email address) of an agent of the Certificate Holder that can address the public's concerns.
- c. The Certificate Holder shall report to the DPS Environmental Certification and Compliance Section Compliance Staff every complaint it receives that cannot be resolved within ten (10) business days after receipt of the complaint.

38.

- a. At least two (2) weeks before commencing Project construction activities, the Certificate Holder shall notify the public of the anticipated date that construction will commence, as follows:
 - i. provide notice to local officials and emergency personnel along the entire Project route;
 - ii. provide notice to local media for dissemination;
 - iii. provide notice for display in public places (such as general stores, post offices, community centers, and conspicuous community bulletin boards); and
 - iv. provide notice to persons who own properties that are crossed by or abut the ROW, and persons who reside on such properties (if different from the owner).

PROPOSED CERTIFICATE CONDITIONS FOR NYPA SMART PATH PROJECT

- b. The Certificate Holder shall write the notice or notices under this paragraph in language reasonably understandable to the average person and shall ensure that the notice or notices contain:
 - i. a map of the Project;
 - ii. a brief description of the Project;
 - iii. the anticipated date for start of site preparation;
 - iv. the name, mailing address, local or toll-free telephone number, and email address of an employee or agent of the Certificate Holder who will, for the duration of construction of the Project, be available to receive complaints, if any, from the public about the construction of the Project; and,
 - v. a statement that the Project is under the jurisdiction of the New York State Public Service Commission, which is responsible for enforcing compliance with environmental and construction conditions, and which may be contacted at an address, email, and telephone number to be provided in the notice.
 - c. Upon distribution, a copy of the form of the notice or notices under this paragraph shall be submitted to the Secretary by the Certificate Holder.
 - d. The Certificate Holder shall notify persons who own properties that are crossed by or abut the ROW, and persons who reside on such properties (if different from the owner), of the planned transmission line construction activities and schedule affecting their residences at least seven (7) days, but no more than thirty (30) days, prior to the commencement of such construction. The Certificate Holder shall give notice by direct mail and may affix such notice to the doors of residences. After such notices are given, and prior to the commencement of such construction, the Certificate Holder shall provide a copy of the generic form of such notice to the Secretary.
39. The Certificate Holder shall provide all contractors providing services for construction for the Project (“Contractors”) with complete copies of the Certificate, the approved EM&CP, the order(s) approving the EM&CP, updated construction drawings, any site-specific plans, NYSDEC’s then-current SPDES General Permit, any permit issued pursuant to Section 404 of the Federal Clean Water Act, Section 10 of the Rivers and Harbors Act, and the Section 401 Water Quality Certification. To the extent that the listed documents are available before contracts for construction services are executed, such copies shall be provided by the Certificate Holder to its Contractors prior to the execution of such contracts.

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40. The Certificate Holder shall notify its Contractors that the Commission may seek to recover penalties for any violation of the Certificate and other orders issued in this proceeding, not only from the Certificate Holder, but also from its Contractors and that Contractors also may be liable for other fines, penalties, and environmental damage.
41. The Certificate Holder shall inform the Secretary in writing at least five (5) days before commencing construction for the Project.
42. Each month after providing notice specified in the preceding paragraph, the Certificate Holder shall provide DPS Staff, NYSDAM, and NYSDEC with monthly status reports summarizing construction and indicating construction activities and locations including NYSDEC-regulated wetlands, adjacent areas, and streams scheduled for the next month.
43. Within ten (10) days after each line of the Project is in service, the Certificate Holder shall notify the Secretary in writing of that fact.
44. The Certificate Holder, within ten (10) days of the completion of final restoration, shall notify the Secretary that all such restoration has been completed in compliance with this Certificate and the Order(s) approving the EM&CP.

G. ROW Construction, Operation, Maintenance and Restoration

45.
 - a. At least two (2) weeks prior to the start of construction, the Certificate Holder shall hold a preconstruction meeting to which it shall invite DPS Staff, NYSDEC, NYSDAM and NYSDOT. An agenda, the location, and an attendee list shall be agreed upon between DPS Staff and the Certificate Holder. Notification to the invitees of the meeting shall be at least 10 days prior to the meeting date.
 - b. The Certificate Holder shall supply draft minutes from this meeting to all attendees and invitees, the attendees may offer corrections or comments, and thereafter Certificate Holder shall issue the finalized meeting minutes to all attendees and invitees.
 - c. If, for any reason, the Contractors cannot finish the construction of the Project, and one or more new construction contractors are needed, the Certificate Holder shall hold another preconstruction meeting with the same format as outlined above.
46. The Certificate Holder shall confine construction and subsequent maintenance for the Project to the certified ROW and approved additional work areas as detailed in the approved EM&CP.

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47. At least two (2) weeks before Project construction begins in any area, the Certificate Holder shall cause both edges of the Project ROW to be delineated in such area, and any known danger trees to be removed in such area will be marked for review and acceptance by DPS Staff within two weeks. Also, the Certificate Holder shall stake and/or flag all on- or off-ROW access roads and other areas needed for such construction, such as structure work areas and laydown and storage areas.
48. The Certificate Holder shall schedule construction activities on the Project to occur between the hours of 7:00 a.m. through 7:00 p.m. Monday through Saturday. If, due to safety or continuous operation requirements, such construction activities are required to occur on a Sunday or after 7:00 p.m., the Certificate Holder, after consultation with the affected municipality, shall seek approval from DPS Staff. Such approval shall be requested at least 24 hours in advance unless the Sunday or after 7:00 p.m. construction activities are required for safety reasons that arise less than 24 hours in advance.
49. Construction shall not commence in any segment of the Project until the real property rights necessary to construct and operate at least 70% of the length of the portion of the Project on such segment are obtained. All segments shall be identified in the EM&CP. The Certificate Holder shall provide a detailed construction schedule to DPS Staff prior to its construction in any segment, together with evidence of such property rights.
50. In connection with ROW vegetation clearing, the Certificate Holder shall:
 - a. comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and Section 9-1303 of the New York State Environmental Conservation Law (“ECL”) and any quarantine orders issued thereunder;
 - b. note on the EM&CP drawings the clearing and disposal techniques;
 - c. not create a maximum wood chip depth greater than three (3) inches, except for chip roads or invasive species control, nor store or dispose chips in wetlands, within stream banks or floodways or agricultural lands;
 - d. utilize the wood resource generated by the clearing in accordance with sound environmental techniques;
 - e. leave stumps in place within 50 feet of streams unless construction of an access road or work pad necessitates removal. Trees shall not be felled into any stream or onto the immediate stream bank; and
 - f. limit clearing of natural vegetation to that material which poses a hazard or hindrance to the construction activity. Snags which provide shelter in streams for fish shall not be disturbed unless they cause serious obstructions, scouring or

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erosion. Trees shall not be felled into any stream or onto the immediate stream bank.

51. The Certificate Holder shall, as part of its purchasing of new ROW and/or danger tree rights, negotiate in good faith with each landowner the purchase of rights to all logs over six (6) inches in diameter at the small end and eight (8) feet or longer (“Merchantable Logs”); the Certificate Holder’s removal of the Merchantable Logs resulting from clearing the Project ROW will be to an off-ROW location(s) and Certificate Holder will provide notice of the location(s) to be included in the EM&CP.
52. The Certificate Holder shall include in the EM&CP a plan for removal, reuse, recycling, and disposal of all existing equipment (e.g., transformers, wood poles, conductors, etc.). The Certificate Holder shall remove from the ROW to appropriate destinations and handle, in accordance with the EM&CP, existing transmission facility equipment that it or its Contractor removes or replaces as part of the Certificate Holder’s work on the Project.
53. The Certificate Holder shall not construct, nor allow any Contractor in its employ to construct, any new access road or improve or use any existing access road, unless such road is shown in the EM&CP. Should the Certificate Holder need additional access, it shall follow the procedures recited in Certificate Condition 36.
54. The Certificate Holder shall restore disturbed construction areas to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations unless the EM&CP specifies otherwise. Disturbed pavement, curbs, and sidewalks shall be restored to their original preconstruction condition or improved.
55. The Certificate Holder shall be responsible for checking all culverts and assuring that they are not crushed, blocked, or otherwise damaged during construction and restoration of the Project. If a culvert is crushed, blocked or otherwise damaged during construction or restoration of the Project, Certificate Holder shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage. Culvert repairs or replacements shall follow specifications in the EM&CP.
56. The Certificate Holder shall, upon completion of the Project:
 - a. conduct an assessment of the need for landscape restoration, including vegetation planting, earthwork or installed features to landscape the Project with respect to public road crossings, residential areas, and substations;
 - b. prepare plans for any visual mitigation found necessary, and, in connection therewith, removal, rearrangement and supplementation of existing landscape improvements or plantings should be considered, as appropriate;

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- c. consult with DPS Staff on content and execution of its assessment, resultant landscaping plan specifications and materials list; details shall include measures for third party or wildlife damage to any landscape and vegetation plantings; and
 - d. present draft assessments and plans to DPS Staff for review and file a final plan with the Secretary within one (1) year after the date each phase of the Project is placed in service; each plan will be limited to the area impacted by the relevant phase.
57. Unless described otherwise in the EM&CP, all trees over four (4) inches in diameter (measured four feet above ground) or shrubs over four feet in height damaged or destroyed by the Certificate Holder's activities during construction, regardless of where located, shall be replaced by the Certificate Holder with equivalent-type trees or shrubs, subject to the provisions of 6 NYCRR Part 575, *Prohibited and Regulated Invasive Species*, except where:
- a. the approved EM&CP permits otherwise;
 - b. equivalent-type replacement trees or shrubs would interfere with the proper clearing, construction, operation, or maintenance of the Project;
 - c. replacement would be contrary to sound ROW management practices or to the Certificate Holder's SLTRVMP; or
 - d. a property owner or other recorded easement or license holder with the right to control replacement declines replacement (other than the Certificate Holder) on whose land the damaged or destroyed trees or shrubs were located declines replacement.
58. The Certificate Holder shall ensure that the EM&CP shall: (a) identify plans for tree protection; and (b) indicate on the drawings where tree protection measures will be applied (if any are known at the time of EM&CP preparation).
59. The Certificate Holder shall include plans in the EM&CP to prevent unauthorized access to and along the ROW, which plans shall include the following:
- a. posting signs at the edges of the Project ROW in those locations where the Project ROW intersects public roads;
 - b. performing outreach to educate and inform the public concerning the risks and impacts of unauthorized access;
 - c. working with local law enforcement officials in an effort to prevent future trespassing;

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- d. identifying construction and material details of gates and berms, if any; and
 - e. final determination of locations of gates and berms shall be made during a post-construction assessment of the Project, in consultation with DPS Staff.
60. Prior to restoration within a given area of the Project, the Certificate Holder shall thoroughly clear the areas of the ROW and work areas where construction occurred of debris related to electric line construction or removal, such as nuts, bolts, spikes, wire, and pieces of steel. All construction debris (e.g., building materials, excess sediment, and work site refuse) generated by the Project shall be completely removed prior to completion of restoration of wetlands, adjacent areas, waterbodies, floodplains and floodways. Construction debris shall be properly disposed of at a permitted waste disposal facility authorized to receive such material.

H. Herbicide Use During Construction

61. If the Certificate Holder applies herbicides on the Project, it shall do so only under the direct supervision of a NYS Certified Applicator who shall own or be employed by a New York State-registered business. The supervising certified applicator shall be familiar with and understand the provisions of this Certificate and shall be present in the field to ensure that the Certificate Holder's application of herbicides complies with its SLTRVMP and the Certificate.
62. If the Certificate Holder applies herbicides on the Project, it shall ensure that all herbicides it uses have valid registrations under applicable state and federal laws and regulations. If the Certificate Holder desires a change to the herbicides specified in the EM&CP for use during construction of the Project, including mix proportions, additives (with the exception of dyes), or method of application, the Certificate Holder shall submit the proposed change for approval pursuant to Certificate Condition 36 of this Certificate. No change inconsistent with the pesticide labeling shall be proposed.
63. If the Certificate Holder applies herbicides on the Project, it shall apply such herbicides only in conformity with all label instructions and all applicable state and federal laws and regulations. It shall apply herbicides in compliance with its SLTRVMP and the Certificate. It shall ensure that its applicators reference maps which indicate treatment areas, and wetland and adjacent area boundaries, prior to treating. It shall ensure that applications required in seasonally flooded freshwater wetlands are undertaken during a dry season.
64. If the Certificate Holder applies herbicides on the Project, it shall ensure that its application of herbicides within wetlands and the 100-foot adjacent areas associated with State-regulated wetlands shall be performed only by backpack treatment or squirt bottle method.

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65. If the Certificate Holder applies herbicides on the Project during or in preparation of construction on agricultural lands (including pastures and farmsteads):
- a. The Certificate Holder shall ensure that, in doing so, it does not allow equipment wash water or excess herbicide to enter wetlands, streams or waterbodies.
 - b. The Certificate Holder's agriculture inspector (as defined in Certificate Condition 95) shall be involved with the notification to the agricultural producer providing ample time to provide livestock segregation practices from the proposed herbicide affected areas. If the agricultural producer is unable to move to livestock to unaffected secluded pasture(s), the Certificate Holder will be responsible to provide, install and maintain temporary fencing (as approved by the agriculture producer) for the duration of the applicable herbicide label's grazing restrictions for the applicable type of livestock. Likewise, the applicable herbicide label's crop restrictions should be clearly communicated with the agriculture producer for their knowledge of when to harvest the applicable crop.
 - c. If the Certificate Holder proposes to apply herbicides during or in preparation of construction on agricultural lands operated under or in pursuit of the National Organic Program according to 7 CFR Part 205, the Certificate Holder shall determine the location of such organic producers, and determine the Certificate Holder's rights to apply herbicides on leased lands, and provide notification of the intended application providing ample time for the organic producer's preparation required defined boundaries and buffer zones as describe in 7 CFR Part 205.

I. Oversight and Supervision

- 66.
- a. The Certificate Holder shall use an inspector or inspectors during construction for Project oversight. Inspector(s) may be used to act for multiple inspection roles as long as such inspector(s) are qualified; including the environmental inspector, the agricultural inspector, and the inspector for invasive species control measures.
 - b. There shall also be a construction supervisor employed full-time on the Project; along with at least one safety inspector who will inspect the work site from time to time; and at least one quality assurance inspector who will inspect the work site from time to time. Inspectors shall also be responsible for or oversee periodic safety inspections of the work site, thereby fulfilling the role of safety inspector. In addition, the quality assurance inspector may also fulfill the inspection requirements under the Certificate.
- 67.
- a. During periods of relative inactivity on the Project, after consultation with and acceptance from DPS Staff, the Certificate Holder may temporarily decrease the

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number of hours worked by inspectors and the extent of their presence at the Project site commensurate with the decline in Project activity; likewise, during periods of relatively high activity on the Project, the number of inspectors and the extent of their presence at the Project site may temporarily increase commensurate with the increase in Project activity. The Certificate Holder shall ensure that the frequency of inspections by the environmental inspector shall comply with the requirements of the SPDES General Permit.

- b. The environmental inspector shall have stop work authority over all aspects of the Project.
 - c. The Certificate Holder shall provide to DPS Staff, NYSDAM and NYSDEC the cell phone numbers of the Certificate Holder's environmental inspector and construction supervisor.
 - d. The Certificate Holder shall ensure that its environmental inspector, the agricultural inspector and construction supervisor are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor Certificate Holder's Contractor's compliance with the provisions of every Order issued in this proceeding with respect to Project and to those sections of the PSL, ECL, Section 401 Water Quality Certification, and the EM&CP.
68. The Certificate Holder shall ensure that the names and qualifications of its environmental inspector, agricultural inspector and construction supervisor are submitted to DPS Staff at least two (2) weeks prior to the start of construction of the Project. The Certificate Holder shall ensure that its environmental inspector's qualifications satisfy those of a "Qualified Inspector" pursuant to the SPDES General Permit.
69. The Certificate Holder's employees, contractors and subcontractors assigned to the construction of the Project and inspection of such construction work shall be properly trained in their respective responsibilities.
70. The authority granted in the Certificate and any subsequent order(s) in this proceeding is subject to the following conditions necessary to ensure compliance with such order(s):
- a. The Certificate Holder shall regard DPS Staff representatives (authorized pursuant to PSL §8) as the Commission's designated representatives in the field. In the event of any emergency resulting from the specific construction or maintenance activities that violate, or may violate, the terms of the Certificate or any other order in this proceeding, such DPS Staff representatives may issue a stop work order for that location or activity.

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- b. A DPS Staff stop work order shall expire twenty-four (24) hours after issued unless confirmed by a single Commissioner. DPS Staff shall give the Certificate Holder notice by electronic mail of any application to a Commissioner to have a stop work order confirmed. If a stop work order is confirmed, the Certificate Holder may seek reconsideration from the confirming Commissioner or the whole Commission. If the emergency prompting the issuance of a stop work order is resolved to the satisfaction of the Commissioner or the Commission, the stop work order will be lifted. If the emergency has not been satisfactorily resolved, the stop work order will remain in effect.
- c. Stop work authority will be exercised sparingly and with due regard to potential environmental impact, economic costs involved, possible impact on construction activities, and whether an applicable statute or regulation is violated. Before exercising such authority, DPS Staff representatives will consult (wherever practicable) with the Certificate Holder's representative(s) possessing comparable authority. Within reasonable time constraints, all attempts will be made to address any issue and resolve any dispute in the field. In the event the dispute cannot be resolved, the matter will be brought immediately to the attention of the Certificate Holder's Project Manager(s) and the Director of the Department of Public Service Office of Electric Gas & Water. In the event that a DPS Staff representative issues a stop work order, neither the Certificate Holder nor the Contractor will be prevented from undertaking any safety-related activities as they deem necessary and appropriate under the circumstances. The issuance of a stop work order or the implementation of measures as described below may be directed at the sole discretion of the DPS Staff representative during these discussions.
- d. If a DPS Staff representative discovers a specific activity that represents a significant environmental threat that is, or immediately may become, a violation of the Certificate or any other Order in this proceeding, the DPS Staff representative may -- in the absence of the Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative, refuse to take appropriate action -- direct the field crews to stop the specific potentially harmful activity immediately. If the Certificate Holder personnel are not on site, the DPS Staff representative will immediately thereafter inform the Certificate Holder's construction supervisor(s) and/or environmental inspector(s) of the action taken. The stop work order may be lifted by the DPS Staff Representative if the situation prompting its issuance is resolved.
- e. If the DPS Staff representative determines that a significant threat exists such that protection of the public or the environment at a particular location requires the immediate implementation of specific measures, the DPS Staff representative may, in the absence of the Certificate Holder supervisory personnel, or in the presence of such personnel who, after consultation with the DPS Staff representative,

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refuse to take appropriate action, direct the Certificate Holder or the relevant Contractors to implement the corrective measures identified in the approved EM&CP. The field crews shall comply with the DPS Staff representative's directive immediately. The DPS Staff representative will immediately thereafter inform the Certificate Holder's construction supervisor(s) and/or environmental inspector(s) of the action taken.

- f. The Certificate Holder will promptly notify DPS Staff and the NYSDEC of any activity that involves a violation of the Certificate.
71. The Certificate Holder shall organize and conduct site-compliance inspections for DPS Staff as needed during construction of the Project, but such inspections shall be conducted no less frequently than once per month during the site preparation, construction, and restoration phases of the Project. Inspections shall conclude upon the final sign-off of the SWPPP by the SWPPP inspector.
- a. The monthly inspection shall include a review of the status of compliance with all conditions contained in the Certificate and any other Order issued in this proceeding, other legal requirements and commitments, as well as a field review of the Project site, if necessary. The inspection also may include:
 - i. Review of all complaints received, and their proposed or actual resolutions;
 - ii. Review of any significant comments, concerns, or suggestions made by the public, local governments, or other agencies and indicate how the Certificate Holder has responded to the public, local governments, or other agencies;
 - iii. Review of the status of the Project in relation to the overall schedule established prior to the commencement of construction; and
 - iv. Other items the Certificate Holder or DPS Staff consider appropriate.
 - b. The Certificate Holder shall provide a written record of the results of the inspection, including resolution of issues and additional measures to be taken, to agencies involved in the inspection audit or requesting copies of the written record at the pre-construction meeting.
72. The Certificate Holder shall ensure that the required safety rules and regulations are communicated to site inspectors in a documented tailboard meeting prior to entry onto the site for work on the Project. Site inspectors are responsible for interpreting these rules for their non-English speaking and reading-impaired employees. Once a site inspector has received the Safety Awareness training session, he or she is authorized to visit that site for which the training was held. A separate training session is required for each jobsite.

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73. The Certificate Holder may require site inspectors to supply their own personal protective equipment for any tours of construction sites. This shall include a properly fitted, currently valid, hardhat, safety glasses with side shields, and steel or ceramic-toed boots at any time while on site, unless the visitor is in a vehicle or in a construction trailer.

J. Roads and Highways

74. The Certificate Holder shall delineate on the EM&CP drawings the locations of proposed temporary access roads, proposed permanent access roads, and existing access roads. The Certificate Holder shall ensure that proposed access road improvements and measures for environmental impact minimization and access control are included in the EM&CP.

75. The Certificate Holder shall minimize the impact of Project construction on traffic circulation. The Certificate Holder shall ensure that traffic control personnel and safety signage are employed to ensure safe and adequate traffic flow when roadways are affected by Project construction.

76. The Certificate Holder shall consult periodically as necessary with municipal highway transportation agencies about traffic conditions near the site of work on the Project and shall notify each such transportation agency of the approximate date work will begin in its jurisdiction, using access points that take direct access from the highways in that jurisdiction for the Project.

77. NYSDOT shall have authority to place inspectors on-site to monitor and observe the Certificate Holder's activities on state highways, and/or to request the presence of state or local police to assure the safety of freeway travelers, at such times and for such periods as NYSDOT deems appropriate. All costs thereof shall be borne by the Certificate Holder.

78. The Certificate Holder shall coordinate all State Highway crossings and longitudinal occupations with NYSDOT. The Certificate Holder shall obtain the necessary permits from NYSDOT, including, as appropriate, a Highway Work Permit and Use and Occupancy Permit pursuant to 17 NYCRR Part 131, including, if necessary, the filing by NYSDOT of a request with the Federal Highway Administration for an exception to the Accommodation Plan for Longitudinal Use of Freeway Right-of-Way by Utilities, for the construction, operation and maintenance of the Project in the ROW of State highways. Said Use and Occupancy Permit shall include payment of a fair market value-based fee for use of State property.

79. The Certificate Holder shall coordinate with DPS Staff and NYSDOT for all work to be performed in the State highway ROWs. Prior to submitting the construction plan for any State highway ROW segment of the Project, the Certificate Holder shall provide to DPS Staff and NYSDOT a preliminary design marked to avoid conflict with potential future transportation projects that NYSDOT may seek to undertake in the future and shall offer

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to consult with NYSDOT concerning any comments it may offer and shall use reasonable efforts to accommodate any NYSDOT concerns.

80. The Certificate Holder shall ensure that:
- a. all work within State highway ROWs shall be designed and performed according to the traffic and safety standards and other substantive requirements contained in 17 NYCRR Part 131, entitled *Accommodation of Utilities Within State Highway Right-of-Way* and applicable design standards required by law or governmental regulation; and
 - b. the EM&CP for street work, if any, provides details, including provisions for minimizing the duration and extent of open excavation, traffic disruptions, and work within adjoining public streets and ROW.

K. Cultural Resources

81. The Certificate Holder shall ensure that no construction is undertaken in previously undisturbed areas where archaeological surveys have not been completed until such time as the appropriate authorities, including OPRHP and DPS Staff, have reviewed the results of any additional historic properties and archeological surveys that are required.
82. The Certificate Holder shall ensure that, should archaeological materials be encountered during construction, the Certificate Holder shall stabilize the area and cease all ground-disturbing activities in the immediate vicinity of the find and protect the find from further damage. Within twenty-four (24) hours of such discovery, the Certificate Holder shall notify and consult with DPS Staff and OPRHP Field Services Bureau to determine the best course of action. No construction activities shall be permitted in the vicinity of the find until such time as the significance of the resource has been evaluated and the need for and scope of impact mitigation has been determined. The Certificate Holder's procedure for unanticipated discoveries will be specified in the EM&CP.
83. The Certificate Holder shall ensure that, should human remains or evidence of human burials be encountered during the conduct of archeological data recovery fieldwork or during construction, all work in the vicinity of the find is halted immediately and the remains are protected from further disturbance. The Certificate Holder shall immediately notify law enforcement/coroner and OPRHP Field Services Bureau and notify DPS Staff within twenty-four (24) hours. The Certificate Holder shall ensure that treatment of human remains is done in accordance with the OPRHP's Human Remains Discovery Protocol and the Certificate Holder's procedure for unanticipated discoveries as specified in the EM&CP, and that all archaeological or remains-related encounters and their handling is reported in the status reports summarizing construction activities and reviewed in the site-compliance audit inspections.

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84. The Certificate Holder shall ensure that the creation of adverse impacts on historic structures in the Project vicinity is avoided by implementing Project location, design, and vegetation management measures, specified in the EM&CP.
85. The Certificate Holder shall have a continuing obligation during construction to respond promptly to complaints of negative archeological impacts and, if necessary, to mitigate any actual impacts through on-site design modifications and off-site mitigation techniques developed in consultation with the OPRHP Field Services Bureau.

L. Terrestrial and Wildlife Resources

86. In order to identify T&E animal or plant species potentially located in the Project area, the Certificate Holder shall refer to 6 NYCRR Parts 182 and 193. Prior to the commencement of construction, the Certificate Holder shall provide all personnel with information on any T&E animal or plant species potentially located in the Project area and indicate measures to minimize risks to the species during construction.
87. If any T&E animal or plant species, or associated habitat (*see* Condition 86), other than those identified in Condition 88 and 90(b), are incidentally observed on or from the Project ROW, access roads, laydown yards, and any other areas where Project activities authorized in this Certificate are conducted, the Certificate Holder shall:
 - a. Notify DPS Staff and NYSDEC within 24 hours; and
 - b. To protect the identified species or its potentially occupied habitat from immediate harm, secure the immediate area, to the extent Certificate Holder has the necessary property rights, and cease construction in that area until DPS Staff, after consultation with NYSDEC, authorizes recommencement of activities.
88. To avoid, minimize and mitigate for impacts to Blanding's turtles, the Certificate Holder shall:
 - a. File with the Secretary a Blanding's Turtle Avoidance, Minimization, and Net Conservation Benefit Plan (Plan) developed in consultation with NYSDEC and DPS. The avoidance and minimization measures contained in the Plan must be filed with the Secretary before commencement of construction. The proposed net conservation benefit measures to be contained in the Plan shall be filed within six months after commencement of construction;
 - b. Avoid placement of structures within potential Blanding's turtle nesting and wetland habitat, to the maximum extent practicable. Where avoidance is not possible, the Certificate Holder shall implement measures, in consultation with NYSDEC, that result in a net conservation benefit to the Blanding's turtle;

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- c. Employ dedicated Blanding's Turtle Monitor(s) to be present for all work within potential Blanding's turtle nesting and associated and core wetland habitats, subject to the following conditions:
 - i. Qualifications of the Blanding's Turtle Monitor(s) shall be submitted to NYSDEC for acceptance, prior to the start of construction in any Blanding's turtle areas. The monitor(s) shall have a Blanding's turtle Endangered/Threatened Species License obtained from NYSDEC's Special License Unit or be listed as a Designated Agent on such a license (license application is available at: <http://www.dec.ny.gov/permits/25012.html>);
 - ii. The number of Blanding's Turtle Monitor(s) shall be determined in consultation with NYSDEC and DPS Staff;
 - iii. The Blanding's Turtle Monitor(s) shall be present to inspect work areas ahead of daily construction activities and shall continue to inspect periodically until construction activities stop for the work day. A daily inspection log shall be maintained and provided to NYSDEC and DPS staff upon request; and
 - iv. The Blanding's Turtle Monitor(s) shall handle the turtle consistent with the conditions set forth in the Blanding's Turtle Monitoring and Handling Protocol in the EM&CP.
- 89. Avoid construction activities within potential Blanding's turtle nesting and wetland habitats to the maximum extent practicable. Where avoidance is not possible, the Certificate Holder shall implement measures, in consultation with NYSDEC, that result in a net conservation benefit to the Blanding's turtle, to be identified in the Blanding's Turtle Plan.
- 90. Prior to the start of construction, the Certificate Holder shall have a qualified biologist re-identify the populations of species of special concern plants within the Project ROW and shall install construction fencing around the areas to restrict access during construction.
- 91. The Certificate Holder, for the protection of state-listed species of special concern, threatened, and endangered species, shall implement the following measures:
 - a. At least two weeks prior to construction activities, the Certificate Holder shall conduct a visual inspection in that area to determine if any bald eagle nests or large stick nest structures, as described in the EM&CP, are present.
 - b. During construction and maintenance activities, if any bald eagle nest is discovered within 0.25-miles of the work area, the Certificate Holder shall notify NYSDEC and DPS Staff within twenty-four (24) hours of discovery and, except in emergency situations, the nest shall not be approached. The 0.25-mile

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environmentally sensitive area shall be marked, where the Certificate Holder has property rights to allow such marking, and, except in emergency situations, this area shall be avoided until DPS Staff, after consultation with NYSDEC, authorizes activities in the buffer area. In the presence of a visual barrier (i.e. tree line, topography) that obstructs the view from the nest and shields it from work activities, the setback requirement may be reduced to 660 feet.

- c. Notify NYSDEC and DPS Staff within twenty-four (24) hours of the discovery of an active nest of any federal or state-listed threatened or endangered bird species within an active construction, ground clearing, grading, or maintenance activity area. The Certificate Holder shall record the location of the nest and then shall post and avoid an area of five hundred (500) feet, or the maximum accessible distance, whichever is greater, in radius from the nest until notice to continue construction at that site is granted by DPS Staff, after consultation with NYSDEC.
- d. Maintain a record of all observations of state threatened or endangered species during construction, operation, and maintenance of the Project.

M. Water Resources

- 92. The Certificate Holder shall perform all construction, operation and maintenance in a manner that first avoids then minimizes adverse impacts to waterbodies, wetlands, and the one hundred (100) foot adjacent areas associated with all State-regulated wetlands. The Certificate Holder shall ensure the provisions to protect wetlands, waterbodies, and adjacent areas are followed as specified in the approved EM&CP:
 - a. Wetland locations and adjacent areas located within the ROW or crossed by the ROW or any off-ROW access road constructed, improved, or maintained for the Project, shall be delineated in the field prior to construction and indicated on the approved EM&CP drawings.
 - b. If access roads or work pads in wetlands cannot be avoided, it shall be done with tracked equipment, on temporary construction mats, or shall be done during dry or frozen conditions. Such locations shall be as set forth on the EM&CP drawings; provided, however, if geotextile/gravel access roads are proposed, such proposal shall be justified in the EM&CP.
 - c. Unless otherwise specified in the approved EM&CP, all work in streams is prohibited from October 1 through May 31 in cold water fisheries, and from March 1 through July 31 in warm water fisheries.

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- d. All work in streams shall be conducted in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area, unless otherwise specified in the approved EM&CP.
- e. There shall be no substantial increase in visible contrast in water clarity or variation of flow volume due to construction activities between upstream reaches of work areas and downstream reaches of work areas.
- f. Water resulting from dewatering operations, equipment washing, or other construction related activities shall not be directly discharged into any wetland or waterbody.
- g. Bridges shall be installed wherever a new permanent stream crossing is required. The bridge shall span the bed and banks of the stream. If a bridge is not practicable, the approved EM&CP shall provide justification for a non-bridge crossing and the permanent culvert shall be designed in accordance with the approved EM&CP.
- h. Concrete batch plants and concrete washout areas shall be located a minimum of 300 feet away from any wetland or waterbody. If the minimum setback cannot be achieved, the approved EM&CP shall provide justification and demonstrate that impacts to wetlands and waterbodies from concrete batch plants and concrete washout areas shall be avoided or minimized to the maximum extent practicable.
- i. Fuel tanks or other chemical storage tanks shall be appropriately contained and located a minimum of 300 feet away from any wetland or waterbody. If the minimum setback cannot be achieved, the approved EM&CP shall provide justification and demonstrate that impacts to wetlands and waterbodies shall be avoided or minimized to the maximum extent practicable.
- j. Equipment refueling, maintenance, and repair shall be conducted a minimum of 100 feet away from any wetland or waterbody, to the maximum extent practicable.
- k. Disturbed streams shall be restored to equal width, depth, gradient, length and character as the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. All disturbed stream banks shall be mulched within (2) days of final grading, stabilized with 100% natural/biodegradable fiber matting, and seeded with an appropriate riparian seed mix specified in the approved EM&CP. In areas where vegetation has been uprooted or grubbed on stream banks, the vegetation shall be replaced with ROW compatible native plantings as site conditions and facility design allow, and as appropriate for consistency with existing land uses, excluding access roads and areas needed for operation and maintenance of the facility.

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- l. A site-specific Stream Crossing Plan shall be developed for each new permanent stream crossing (i.e., permanent bridge or culvert) in accordance with Specifications in Appendix F of the Joint Proposal. All structures must be able to safely pass the 1% storm event and be capable of withstanding any higher flow intervals likely to be experienced within a specific waterbody without causing damage to the stream bed or banks. Bridges or culverts may not be dragged through the stream and must be suitably anchored to prevent downstream transport during a flood. Fill may not be placed within the stream channel below bankfull elevation and placement of abutments or fill is authorized only above and outside bankfull boundaries. Geotextile fabric must be placed below and extending onto the bank and suitable side rails built into the bridges to prevent sediment from entering the waterbody. The permanent stream crossing shall facilitate downstream and upstream passage of aquatic organisms.
 - m. Any in-stream work or restoration shall not result in an impediment to passage of aquatic organisms.
 - n. Disturbed wetlands and State-regulated wetland adjacent areas shall be immediately stabilized and restored to pre-construction contours as soon as practicable. Immediately upon completion of grading, and as consistent with existing land uses, the area shall be seeded with a seed mix of native plants specified in the approved EM&CP that is appropriate for such areas. Overall vegetative cover in restored areas shall be monitored for a minimum of 5 years or until an 80% cover of plants with the appropriate wetland indicator status has been reestablished over all portions of the restored area.
93. The Certificate Holder shall work with NYSDEC to develop a Wetland Mitigation Plan, if necessary, following NYSDEC's wetland mitigation guidelines and the specifications contained in Appendices F and G of the Joint Proposal and will submit the Plan within six months of the start of construction for NYSDEC Staff acceptance.
94. Upon filing a permit application with the USACE, the Certificate Holder shall provide a copy to DPS Staff.

N. Agricultural Resources

95. As required by Certificate Condition 66(a), the Certificate Holder shall retain a qualified inspector who also qualifies as an Agricultural and Soil Conservation Specialist/Inspector. The Certificate Holder shall ensure that the names and qualifications of its agricultural inspector are submitted to NYSDAM at least two (2) weeks prior to the start of construction of the Project for approval. When working in agricultural lands, such inspector shall be on-site for each phase of Project development, including design, construction, initial restoration, post-construction monitoring, and follow-up restoration. If qualified, and upon NYSDAM's review and consent, the environmental inspector may

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satisfy this requirement. The agricultural inspector shall be available to provide site-specific agricultural information as necessary for the Certificate Holder's EM&CP development through field review as well as to have direct contact with affected agricultural producers, County Soil and Water Conservation Districts, NYSDAM, and others. The agricultural inspector shall maintain regular contact with the environmental inspector and/or the construction supervisor throughout the construction phase. The agricultural inspector also shall maintain regular contact with the affected farmers and County Soil and Water Conservation Districts concerning farm resources and management matters pertinent to the agricultural operations and the site-specific implementation of the EM&CP. Whenever the Certificate Holder submits a request for an EM&CP change concerning agriculture, the Certificate Holder shall consult with NYSDAM.

96. The Certificate Holder shall identify black cherry trees located on the Project ROW near active livestock use areas during development of the EM&CP. During the clearing phase, such vegetation shall be disposed of in a manner which prevents access by livestock.
97. In agricultural areas, logs, stumps, brush, or chips shall not be piled or buried in active agricultural fields or improved pasture.
98. The Certificate Holder shall design the Project, to the extent possible, to avoid or limit the placement of structures on crop fields or on other active agricultural land where the structures may significantly interfere with normal agricultural operations or activities. Where the location of a structure on such agricultural land is unavoidable, the Certificate Holder shall attempt to site the structure in a location that minimizes impact to normal farming operations.
99. The Certificate Holder shall ensure that, during preparation of the EM&CP, and in accordance with the EM&CP, a drainage line repair procedure shall be developed, in consultation with NYSDAM or the local Soil and Water Conservation District, for the repair of crushed/severed clay tile and plastic drain lines. Drawings showing the generic technique to be implemented for drain line repairs shall be provided by the Certificate Holder. All new plastic drain tubing shall meet or exceed the AASHTO M252 specifications. The plan for the replacement of functional stone drainage systems severed during construction shall be prepared during the restoration phase, in consultation with NYSDAM or the local Soil and Water Conservation Districts.
100. The Certificate Holder shall ensure that, where construction entrances are required from public roadways to the Project ROW in agricultural fields, either construction matting will be used or an underlayment of durable, geotextile fabric is placed over the exposed subsoil surface prior to the use of temporary gravel access fill material. In locations where underground utilities are located within 10 feet of the shoulder of the roadway, the Certificate Holder may elect, in order to minimize disturbance and protect the underground utilities, to place the geotextile fabric directly over the surface without

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stripping topsoil. In locations where underground utilities are located 10 feet or more from the shoulder of the roadway, but still within the limits of the construction entrance, the Certificate Holder may elect to mat over the underground utilities instead of placing geotextile fabric and gravel access fill material. Complete removal of the construction entrance upon completion of the Project and restoration of the affected site is required prior to topsoil replacement, except where retention of the construction entrance would be more conducive to the existing land use than removal.

101. The Certificate Holder shall ensure that segments of farm roads that need improvement in order to be utilized for access are improved in consultation with the agricultural producer and NYSDAM prior to use. Such improvements may include the installation of geotextile fabric and crushed stone. Improvements shall be coordinated through the agricultural inspector and the agricultural producer to allow continued agricultural use of farm roads by the agricultural producers.
102. The Certificate Holder shall ensure that farm drainage features, fences, and gates affected by construction are rebuilt to like new condition upon completion of construction, and the base of all new posts are secured to a reasonable depth below the surface to prevent frost heave. The Certificate Holder shall provide information concerning the construction of fences gates (whether temporary or permanent) to the agricultural producer and NYSDAM.
103. Where repeated temporary access is necessary across agricultural portions of the ROW and agricultural fields are utilized for access, construction mats should be utilized as an alternative to topsoil stripping. The Certificate Holder shall ensure that where mats are installed; the mats are layered where necessary to provide a level access surface; and once access is no longer required for Project construction, the mats are removed and the agricultural inspector uses a soil penetrometer to determine if soil compaction has occurred as a result of construction activities. All compacted areas shall be remediated.
104. The Certificate Holder shall ensure that: where the installation of mats is not practical, topsoil is removed, including all of the “A” horizon down to the beginning of the subsoil “B” horizon, generally not to exceed a maximum of twelve (12) inches (topsoil removal up to a depth of sixteen (16) inches may be required in specially-designated soils encountered along the Project route and identified in the EM&CP); all topsoil is stockpiled directly adjacent to the travel way on the Project ROW and separated from other excavated materials; the agricultural inspector determines depth of topsoil stripping on each affected farm by means of the County Soil Survey and on-site soil augering, if necessary; all topsoil material is stripped, stockpiled, and uniformly returned to restore the original soil profile; during the clearing/construction phase, site-specific depths of topsoil stripping is monitored by the Agricultural Inspector; and the use of topsoil stripping for construction access, as opposed to matting, is done only with approval from DPS Staff in consultation with NYSDAM.

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105. The Certificate Holder shall provide access for the agricultural producer to maintain normal agricultural operations to the maximum extent practicable. Where agriculture access is required to cross construction access, alterations to construction access shall be made to offer safe crossing considering agriculture equipment clearances, turning radius, and other operation concerns. Where Project bisects agricultural areas and limits agricultural equipment operation to perform normal agricultural operations outside of the Project ROW during construction, the Certificate Holder shall compensate the agricultural producer for the loss of the applicable commodity, otherwise scheduled construction shall avoid such impacts.
106. The Certificate Holder shall ensure that: in agricultural areas of till over bedrock where blasting is required, matting or controlled blasting is used to limit the dispersion of blast rock fragments; all blasted rock not used as backfill is removed from croplands, haylands and improved pastures; the till and topsoil is returned in natural sequence to restore the soil profile; and farm owners/operators are given timely notice prior to blasting on farm property. If fill material is required, the proposed material shall be filled with an invasive free material similar to native soil to the same level as the adjacent area, plus six (6) to twelve (12) inches of additional soil to allow for settling.
107. The Certificate Holder shall ensure that: in all agricultural sections of the Project ROW disturbed during construction, the subsoil compaction is eliminated (if applicable) to a depth of 18 inches (unless bedrock is encountered at a depth less than 18 inches) with deep tillage by such devices as a deep-ripper (subsoiler); final soil compaction results shall not be more than 250 pounds per square foot (“PSF”) as measured with a soil penetrometer once moisture of the soil profile on the affected portion of the project ROW has been returned to equilibrium with the adjacent off-ROW land; following the deep ripping, all stone and rock material four (4) inches and larger in size, which has been lifted to the surface, is collected and taken off site for disposal; following the deep ripping, all debris shall be disposed of in a manner consistent with Certificate Condition 60; the topsoil temporarily removed for the period of construction shall then be replaced; deep subsoil shattering shall be performed with a subsoiler tool having angled legs; and stone removal shall be completed, as necessary, to eliminate any additional rocks and stones brought to the surface as a result of the final subsoil shattering process. Should subsequent construction and/or restoration activities result in compaction, then restoration activities shall include additional deep tillage.
108. The Certificate Holder shall ensure that: all structure foundations and guy anchors removed from agricultural areas as part of the construction activities are removed to a minimum depth of 48 inches below the soil surface; all holes or cavities created by the removal of the old facilities are filled with an invasive free material similar to native soil to the same level as the adjacent area, plus six (6) to twelve (12) inches of additional soil to allow for settling; all holes or cavities created by the installation of new structures or facilities are filled with material appropriate for the structure being installed to the same level as the adjacent area; and all fill material is compacted.

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109. The Certificate Holder shall ensure that: wherever existing structures are removed from agricultural fields, the area is restored to allow the resumption of agricultural activities; such restoration includes the removal of all woody vegetation from the structure area and grading of the ground surface to match the adjacent field; and all stone and rock material four (4) inches and larger in size are removed from the surface. All debris shall be disposed of in a manner consistent with Certificate Condition 60.
110. The Certificate Holder shall provide a monitoring and remediation period of two (2) growing seasons following completion of ROW restoration in active agricultural areas. The Certificate Holder shall retain the services of an agricultural inspector on at least a part-time basis through this period. The monitoring and remediation phase shall be used to identify any remaining agricultural impacts associated with construction of the Project that are in need of mitigation and to implement the follow-up restoration. During this phase, the agricultural inspector shall also maintain a list of invasive species observed on such portion of the Project ROW in agricultural areas, adjoining ROW areas, and other areas utilized by the current field operator. In agricultural areas where invasive species are documented along such portion of the Project ROW, such Certificate Holder, in consultation with the agricultural inspector, DPS Staff and NYSDAM, shall determine whether such species were pre-existing or whether such species were introduced by its work on the Project in accordance with the Invasive Species Plan as discussed in Certificate Condition 134. If it is determined at the end of the Certificate Holder's work, the Project was directly responsible for the introduction of invasive species to the agricultural areas, the Certificate Holder shall consult with the agricultural producer, DPS Staff, NYSDEC and NYSDAM to determine the appropriate control measures to implement.
111. The Certificate Holder shall ensure that, during the monitoring and remediation period of the Project, on-site monitoring shall be conducted at least three times (spring, summer and fall) during each growing season and shall include a comparison of growth and yield for crops on and off of the Project ROW. When the subsequent crop productivity within the affected ROW is less than that of the adjacent unaffected agricultural land, the agricultural inspector, in conjunction with the Certificate Holder and other appropriate organizations, shall help to determine the appropriate rehabilitation measures for the Certificate Holder to implement further mitigation (e.g. soil de-compaction, topsoil replacement, soil amendments, etc.). The Certificate Holder shall ensure that, during the various stages of the Project, all affected farm operators are periodically apprised of the duration of remediation by the agricultural inspector. Because conditions which require remediation may not be noticeable at or shortly after the completion of construction, the signing of a release form prior to the end of the remediation period shall not obviate the Certificate Holder's responsibility to fully redress the impacts of the Project. After completion of the specific remediation period, the Certificate Holder shall continue to respond to the reasonable requests of the farmland owner/operators to correct effects related to the Project on the impacted agricultural resources.

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112. The Certificate Holder shall provide all affected farm owners/operators with a telephone number to facilitate direct contact with the Certificate Holder and the agricultural inspector through all of the stages of the work on the Project. The Certificate Holder shall also ensure that the farm owner/operators are provided with a telephone number to facilitate direct contact with the Certificate Holder's Project Manager during operation and maintenance of the transmission line.
113. The agricultural inspector shall work with the agricultural producers during the planning phase to develop a plan to delay the pasturing of the Project ROW during construction as well as following construction of each segment of the Project until pasture areas are adequately revegetated. The Certificate Holder shall be responsible for maintaining the temporary fencing on the applicable portions of the ROW until the agricultural inspector determines that the vegetation on such portions of the ROW is established and able to accommodate grazing. At such time, the Certificate Holder shall be responsible for removal of the fences.
114. The Certificate Holder shall ensure that: on affected farmland, restoration practices are postponed until favorable (workable, relatively dry) topsoil/subsoil conditions exist; restoration is not conducted while soils are in a wet or plastic state; stockpiled topsoil is not regraded until plasticity, as determined by the Atterberg field test, or a similar soil moisture test, is significantly reduced; and no Project restoration activities occur in agricultural fields between the months of October through May unless favorable soil moisture conditions exist. The Certificate Holder shall monitor and advise NYSDAM and DPS Staff regarding tentative restoration planning for the Project. Potential schedules will be determined by conducting the Atterberg field test, or a similar soil moisture test, at appropriate depths into topsoil stockpiles and below the traffic zone for a mutual determination of adequate field conditions for the restoration phase of the Project.
115. Following restoration of all disturbed areas, excess topsoil shall be distributed in agricultural areas of the site, provided this is practicable and can be accomplished without having any adverse impact on site drainage. All such activity shall be as directed by the Agricultural Inspector, based on guidance provided by the landowner.
116. After restoration and once the moisture of the soil profile on the affected portion of the Project ROW has been returned to equilibrium with the adjacent off-ROW land, subsoil compaction shall be tested using an appropriate soil penetrometer or other soil-compaction measuring device.
117. The Certificate Holder shall ensure that: topsoil stockpiles on agricultural areas left in place prior to October 31 are seeded with Aroostook Winter Rye or equivalent at an application rate of three (3) bushels (168 #) per acre and mulched with straw mulch at rate of two (2) to three (3) bales per 1,000 sq. ft.; topsoil stockpiles left in place between October 31 and May 31 are mulched with straw mulch at a rate of two (2) to three (3)

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bales per 1,000 sq. ft.; and straw (not hay) mulch is used to prevent soil loss on stockpiled topsoil from October through May.

118. The Certificate Holder shall ensure that, after topsoil replacement, seedbed preparation (final tillage, fertilizing, liming) and seeding should be prepared using equipment appropriate for the agricultural conditions and following either the pre-existing crop, the agriculture producer's request, and/or NYSDAM recommendations as contained in *Fertilizing, Lime and Seeding Recommendations for Restoration of Construction Projects on Farmlands in New York State* (revised 9-25-2012).

O. Petroleum and Hazardous Substances

119. The EM&CP shall include a plan for storage of all petroleum and hazardous substances which may be used during, or in connection with, the construction, operation, or maintenance of the Project.
120. The EM&CP shall include a plan for responding to and remediating the effects of any spill of petroleum and hazardous substances in accordance with applicable law and regulations. Such plan shall be developed in accordance with applicable state and federal laws, regulations and guidance, and shall include proposed methods of handling spills of petroleum products and hazardous substances which may be stored or utilized during the construction, operation, or maintenance of the Project.
121. The Certificate Holder shall comply with New York Navigation Law § 175, 6 NYCRR § 613.8 (petroleum spills), and 6 NYCRR § 595.3(b) (hazardous substance spills).

P. Contractors and Contractor Supplies/Materials

122. At least two (2) weeks prior to the Certificate Holder's construction of a particular Project segment, as defined in the EM&CP, the Certificate Holder shall submit a report to the Secretary confirming that all required construction materials are available for the Project. For purposes of this paragraph, an item of construction material is available if: (i) it is located at a laydown yard; (ii) it is in a Certificate Holder's warehouse or other routine Certificate Holder inventory stocking location; or (iii) it is on order from a vendor with a scheduled delivery date prior to the time scheduled for its use in the Project.
123. The Contractor shall be responsible for all construction materials after they have been received by the Contractor. All equipment shall be located within approved laydown yard(s) or within the Project ROW, or other off-ROW areas provided, however, that if a local contractor is used for the work, the local contractor's facility may be considered as an acceptable laydown yard.
124. DPS Staff will provide the name of a contact person(s) ("DPS Staff Representative") and the contact information (mailing address, phone number, e-mail, etc.) of that individual

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for purposes of this Certificate Condition and Certificate Conditions 122 through 132 of this Certificate. If a reportable accident occurs in connection with work on the Project, the Certificate Holder shall report such accident to the DPS Staff Representative as soon as possible, and shall provide a copy of the accident report, if any, to the DPS Staff Representative after it has been finalized.

125. The Certificate Holder shall provide the DPS Staff Representative with a monthly audit report reflecting material inventory and usage by the Certificate Holder during its work on the Project.
126. The Certificate Holder shall provide the DPS Staff Representative with a copy of any police report and any insurance claim filed in connection with any theft of Project-related materials, as well as a list of the stolen items. Subsequently, the Certificate Holder shall provide the DPS Staff Representative with an accounting of all replacement materials. The Certificate Holder's accounting of replacement materials shall include documentation of the insurance company's coverage and the contractor's costs for replacement.
127. The Certificate Holder shall, within six (6) months following completion of restoration of the Project ROW, provide to the DPS Staff Representative a full accounting of all costs incurred to date for the Project, including an explanation of variances, if any, between projected and actual costs.
128. The Certificate Holder shall ensure that a company engineer who designed the Project, or a representative from the engineering design firm that designed the Project or another Consultant selected by the Certificate Holder, shall conduct field reviews on a monthly basis and prepare a written report of the firm's findings on whether the Project is being constructed in accordance with the design for the Project. The Certificate Holder shall provide a copy of each such report to the DPS Staff Representative within three (3) business days after the Certificate Holder receives the report. The Certificate Holder shall notify the DPS Staff Representative of when the field reviews will occur.
129. If a Contractor installs materials, structures, or components that do not conform to those specified in the EM&CP, the Certificate Holder, within one (1) month after becoming aware of such incident, shall prepare and deliver to the DPS Staff Representative a summary report detailing the incident, the steps to be taken to rectify the mistake, the material and labor costs associated with rectifying the incident, and the manner in which such costs will be accounted for separately from the Certificate Holder's other Project costs.
130. The Certificate Holder shall develop a quality control plan ("Quality Control Plan") for the Project to be included in the EM&CP describing how it will ensure that the transmission line structures and components it purchases for the Project conform to the specification for structures and components described in the EM&CP. At a minimum, the Quality Control Plan shall include:

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- (i) the name(s) and qualifications of the individual(s) who will conduct audits under the Quality Control Plan (“Quality Control Audits”); and
 - (ii) the frequency with which the Quality Control Audits will be performed.
131. Within 5 business days following completion of each Quality Control Audit, the Certificate Holder shall provide to Staff a report of such audit that includes: (i) a description of the results of the audit, particularly with respect to results that identify that one or more structures or components the Certificate Holder purchased for installation in the Project did not conform to the specification for structures or components described in the approved EM&CP; and, (ii) any notes pertinent to the subject matter of such audit which were made at audit meetings by the Certificate Holder’s personnel and contractors who performed the audit.
132. If any Quality Control Audit conducted by the Certificate Holder confirms that one or more structures or components the Certificate Holder purchased for installation in the Project did not conform to the specification for structures and components described in the approved EM&CP, the Certificate Holder shall: (i) provide written notification to the Secretary within 24 hours of the Certificate Holder’s confirmation of such non-conformity; and (ii) describe the steps the Certificate Holder will take to correct the non-conformity, including whether any components must be dismantled and sent back to the manufacturer, as well as a detailed estimate of all costs and expected delays in construction resulting from such non-conformity.
133. All costs incurred by the Certificate Holder as a result of its purchase of a structure or component for installation in the Project that did not conform to the specification for structures and components described in the approved EM&CP shall be accounted for separately from the Certificate Holder’s overall Project costs.

Q. Invasive Species

134. The Certificate Holder shall prepare an Invasive Species Plan in consultation with NYSDEC which shall ensure compliance with 6 NYCRR Part 575. The Certificate Holder shall implement said Invasive Species Plan as part of the approved EM&CP.

R. Water Quality Certification

135. Concurrent with Commission approval of the EM&CP for this Project, the Chief of the Environmental Certification and Compliance Section in the Office of Electric, Gas and Water, pursuant to § 401 of the Federal Water Pollution Control Act (“Clean Water Act”), as amended, 33 U.S.C. § 1341, and PSL Article VII, will execute the certification, substantially in the form of Appendix G to the Joint Proposal, that the Project will comply with the applicable requirements of §§ 301, 302, 303, 306, and 307 of the Clean Water

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Act, as amended, and will not violate New York State water quality standards and requirements.

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NYPA Smart Path Project**

**APPENDIX E
SPECIFICATIONS FOR DEVELOPMENT OF EM&CP**

APPENDIX E

SPECIFICATIONS FOR THE DEVELOPMENT OF ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN

Section A of the Specifications for the Development of Environmental Management and Construction Plan (“Specifications”) addresses the development of the plan and profile drawings, and maps portion of the Environmental Management and Construction Plan (“EM&CP”).

Section B addresses the description and statement of objectives, techniques, procedures, and requirements, i.e. the textual portion of the EM&CP. A table of contents will be included for the EM&CP and each section, appendix or exhibit containing ten or more pages.

If any particular requirement of the Specifications is not applicable, so indicate and briefly explain.

A. EM&CP Plan and Profile Drawings and Maps

The EM&CP maps, charts, photostrip maps, and illustrations shall include, but need not be limited to, all of the following information:

1. Plan and Profile Details

A Line ¹ Profile (at an appropriate scale) and plan drawings (scale minimum 1 inch = 200 feet) ² showing:

¹ The lowest conductor of an overhead design shall be shown in relation to ground at the maximum permissible conductor temperature for which the line is designed to operate, i.e., normally the short-time emergency loading temperature. If a lesser conductor temperature is used for the line profile, the maximum sag increase between the conductor temperature and the maximum conductor temperature shall be indicated for each ruling span. For underground Project design, show relation of Project to final surface grade, indicating design depth-of-cover.

² Contour lines (preferably at 5-foot intervals) are desirable on the photostrip map if they can be added without obscuring the required information.

- a. The boundaries of any new, existing, and/or expanded right-of-way (ROW)³ or road boundaries, and where cables are to be constructed overhead or underground; plus areas contiguous to the ROW or street within which the Certificate Holder will obtain additional rights.
- b. The location of each Project structure (showing its height, material, finish and color, and type), structural foundation type (*e.g.*, concrete, direct bury), fence, gate, down-guy anchor, and any grounding/counterpoise required for the Project (typical grounding/counterpoise drawings will suffice recognizing that before field testing of installed structures the Certificate Holder may be unable to determine the specific location of all required grounding/counterpoise), conductors, insulators, mid-span splices, and static wires and other components attached to Project structures.
- c. Existing utility and non-utility structures on the ROW and indicate those to be removed or relocated (include circuit arrangements where new structures will accommodate existing circuits, indicate methods of removal of existing facilities, and show the new locations, types and configurations of relocated facilities).
- d. Any known underground utility or non-utility structure.
- e. The relationship of the Project to nearby fence lines; roads; railways; airfields; property lines; hedgerows; surface waters; wetlands; other waterbodies; significant habitats; associated facilities; flowing water springs; nearby buildings or structures; major antennas; oil or gas wells, and blowdown valves.

³ The term “right-of-way” in these Specifications includes property, whether owned in fee or easement, to be used for substations, disposal sites, underground terminals, laydown yards, and other associated facilities. Where such properties cannot reasonably be shown on the same plan or photo-strip, maps, or plan drawings used for the transmission line, additional maps or drawings at convenient scales should be used.

- f. The location of any proposed new or expanded switching station, substation, or other terminal or associated utility or non-utility structure (attach plan⁴ - plot, grading, drainage, and electrical - and elevation views with architectural details at appropriate scales). Indicate the type of outdoor lighting, including design features to avoid off-site illumination and minimize glare; the color and finish of all structures; the locations of temporary or permanent access roads, parking areas, construction contract limit lines, property lines, designated floodways and flood-hazard area limits, buildings, sheds, relocated structures, and any plans for water service and sewage and waste disposal.
- g. The location and boundaries of any areas whether located on- or off- ROW proposed to be used for fabrication, designated equipment parking, staging, access, lay-down, and conductor pulling. Indicate any planned fencing, surface improvements, and screening of storage and staging areas.
- h. The locations for ready-mix concrete chute washout and any other cleaning activities (e.g., control of invasive species).

2. Stormwater Pollution Prevention

- a. Include on the plan and profile drawings the acknowledged Storm Water Pollution Prevention Plan (SWPPP) details. Include the locations of soil erosion and sediment control measures developed in accordance with the latest version of the New York Standards and Specifications for Erosion and Sediment Control (e.g., stabilized construction entrances, silt fences, check dams, and sediment traps).

⁴ Preferably 1" = 50' scale with 2-foot contour lines.

- b. Include on the plan and profile drawings the approved SWPPP locations of all permanent stormwater management controls that are required based on site-specific conditions or conditions of the Certificate.

3. Vegetation Clearing and Disposal Methods

Identify on the plan and profile drawings:

- a. the locations of sites requiring trimming or clearing of vegetation and the geographic limits of such trimming or clearing;
- b. the specific methods for the type and manner of cutting and disposition or disposal method for cut vegetation (e.g., chip; cut and pile; salvage merchantable timber, etc.);
- c. the methods for management of vegetation to be cut or removed at each site;
- d. any geographical area bounded by distinctly different cover types requiring different cut-vegetation management methods;
- e. any geographical area bounded at each end by areas requiring distinctly different cut-vegetation methods due to site conditions such as land use differences, population density, habitat or site protection, soil or terrain conditions, fire hazards, or other factors;
- f. different property-owners requesting specific vegetation treatment or disposal methods;
- g. areas requiring (off-ROW) danger tree removal; and,
- h. the location of any areas where specific vegetation protection measures will be employed and the details of those measures to avoid damage to specimen tree stands of desirable species, important screening trees, or hedgerows.

4. Building and Structure Removal

Indicate the locations of any buildings or structures to be acquired, demolished, moved, or removed.

5. Waterbodies

a. Indicate the name, water quality classification and location of all rivers and streams, (whether perennial and intermittent) and drainages crossed by, the proposed ROW or any off-ROW access road constructed, improved or maintained for the Project. On the plan and profile drawings, indicate:

- 1) stream crossing method and delineate any designated streamside “protective or buffer zone” in which construction activities will be restricted to the extent necessary to minimize impacts on rivers and streams;
- 2) the activities to be restricted in such zones; and,
- 3) identify any designated floodways or flood hazard areas to be traversed by the Project or access roads, or otherwise used for Project construction or the site of associated facilities.

b. Show the location of all potable water sources, including springs and wells on the ROW or within 100 feet of the ROW or access roads indicating on a site-by-site basis, precautionary measures to be taken to protect each water source.

6. Wetlands

a. All wetlands and state regulated 100-foot adjacent areas (“adjacent areas”) located within the ROW or crossed by the ROW or any off-ROW access road constructed, improved, or maintained for the Project shall be depicted on EM&CP drawings. The plan and profile drawings shall delineate the wetland “protective or buffer zone” in

which construction activities will be restricted to the extent necessary to minimize impacts on wetlands.

- b. Indicate the location and type (i.e., identification code for regulated town, state, or federal wetlands) of any wetland (e.g., marsh, meadow, bog, or scrub-shrub or forested swamp) within or adjoining the ROW or any access road, as determined by site investigation and delineation.
- c. Indicate type and location of precautionary measures (e.g., mats) to be taken to protect all wetlands, associated drainage patterns and wetland functions.

7. Land Uses

a. Agricultural Areas

- 1) Indicate the locations of sites under cultivation or in active agricultural use including rotational pasture, pasture, hayland, and cropland.
- 2) Indicate the location of any unique agricultural lands including maple sugarbushes, organic muckland and permanent irrigation systems, as well as areas used to produce specialty crops such as vegetables, berries, apples, and grapes.
- 3) Indicate the location of vulnerable soils in agricultural areas that are more sensitive than other agricultural soils to construction disturbance due to slope, soil wetness, and shallow depth to bedrock.
- 4) Indicate the location of all land and water management features including subsurface drainage, surface drainage, diversion terraces, buried water lines, and water supplies.

- 5) Designate the site-specific techniques to be implemented to minimize or avoid construction-related impacts to agricultural resources.

b. Sensitive Land Uses and Resources

Indicate the location and identification of sensitive land uses and resources that may be affected by construction of the Project or by construction-related traffic (e.g., hospitals, emergency services, sanctuaries, schools, and residential areas).

c. Geologic, Historic, and Scenic or Park Resources

Indicate the locations of geologic, historic, and existing or planned scenic or park resources and specify measures to minimize impacts to these resources (e.g., fencing, signs).

d. Recreational

Indicate the locations where existing or planned recreational use areas, would affect or be affected by the Project location, construction or other ROW preparation.

8. Access Roads, Lay-down Areas and Workpads

Indicate the locations of temporary and permanent on- and off-ROW access roads, lay-down areas and workpads. Provide construction type, material, and dimensions. Indicate provisions for upgrading any existing access roads.

9. Noise Sensitive Sites

Show the locations of noise-sensitive areas along the proposed ROW.

10. Ecologically and Environmentally Sensitive Areas

Indicate the general locations of any known ecologically and environmentally sensitive sites (e.g., archaeological sites; fish and wildlife habitat; rare, threatened, and endangered species or habitats; forest and vegetation; open space; areas of important aesthetic or

scenic quality; deer winter yards, etc.), within or nearby the proposed or existing ROW or along the general alignment of any access roads to be constructed, improved or maintained for the Project. Specify the measures that will be taken to protect these resources (e.g., fencing, flagging, signs “Sensitive Environmental Areas, No Access”).

11. Invasive Species of Special Concern

Identify the location(s) of invasive species of special concern and the prescribed method to control the spread and/or eradicate the identified species.

12. Herbicide

On the plan and profile drawing notes, indicate areas where herbicides will not be used.

B. Description and statement of objectives, techniques, procedures and requirements

The textual portion of the EM&CP for the Project shall include, but need not be limited to, all of the following information:

1. Project Location and Description

Describe the location and limits of the site or ROW and explain the need for any additional rights. For each structure type, indicate the GSA—595A Federal standard color designation or manufacturer’s color specification to be used for painted structures.

State any objections raised by Federal, State or local transportation (highways, waterways, or aviation) officials to the final location or manner of installation of, or access to, the certified Project. Provide a rationale for the inclusion of any mid-span splice locations proposed.

2. Stormwater Pollution Prevention

a. The information included in the acknowledged SWPPP.

- b. In areas of coastal erosion hazard, include plans to demonstrate compliance with the standards for coastal erosion hazard protection as required by 6 NYCRR Part 505 - Coastal Erosion Management.

3. Vegetation Clearing and Disposal Methods

- a. Describe the specific methods and rationale for the type and manner of cutting and disposition or disposal methods for cut vegetation.
- b. Detail specific measures employed to avoid damage to specimen tree stands of desirable vegetation, rare, threatened and endangered species, important screening trees, and hedgerows.
- c. Identify the factors such as the attributes of the site, outcome of landowner negotiations, and attributes of the logs, upon which Certificate Holder’s removal of the merchantable logs resulting from clearing the ROW for the Project will be based.
- d. Describe methods of compliance with 6 NYCRR Part 192 – Forest Insect and Disease Control, applicable NYSDEC quarantine orders, and New York State Department of Agriculture and Markets (“NYSDAM”) regulations.

4. Building and Structure Removal

Indicate the locations of any buildings or structures to be acquired, demolished, moved, or removed. Provide the rationale for the acquisition and removal of buildings or structures.

5. Waterbodies

- a. Describe the measures to be taken to protect stream bank stability, stream habitat, and water quality including, but not limited to: crossing technique; crossing structure type; timing restrictions for in-stream work; stream bed and bank restoration

measures; vegetation restoration measures; and other site-specific measures to minimize impacts, protect resources, and manage Project construction.

- b. Indicate the procedures that were followed to inventory such resources and provide copies of any resulting data sheets and summary reports.
- c. Develop a table of waterbodies crossed by the Project and include: Town (location), Existing Structure Span (mileposts), Stream Name, Field/Map Identification Name, Perennial or Intermittent, New York Stream Classification, Water Index Number, Crossing Method and Length, Fishery Type, GPS coordinates.

6. Wetlands

- a. For each State-regulated wetland, indicate the following: town (location); existing Structure Span (milepost); wetland field designation; NYSDEC classification code; wetland type; proposed structure located within wetland; total area of temporary disturbance/impact; dead end structures in NYSDEC wetlands; tangent structures in NYSDEC wetlands; total area of permanent disturbance in NYSDEC wetlands (sq. ft.); area crossed by Project (sq. ft.); conversion of State-regulated forested wetlands (sq. ft.).
- b. Describe all activities that will occur within State-regulated wetlands or adjacent areas (e.g., construction, filling, grading, vegetation clearing, and excavation) and assure that the activity is consistent with the weighing standards set forth in 6 NYCRR 663.5(e) and (f). Describe how impacts to wetlands, adjacent areas, associated drainage patterns, and wetland functions will be avoided, and how impacts will be minimized.

- c. Describe the precautions or measures to be taken to protect all other wetlands (e.g., town, federal wetlands) associated drainage patterns, and wetland functions.

7. Land Uses

a. Agricultural Areas

- i. Describe programs, policies, and procedures to mitigate agricultural impacts such as soil compaction. Explain how construction plans either avoid or minimize crop production losses and impacts to vulnerable soils.
- ii. Indicate specific techniques and references to appropriate agricultural protection measures recommended by NYSDAM.

b. Sensitive Land Uses

Describe the sensitive land uses (e.g., hospitals, emergency services, sanctuaries, schools, residential areas) that may be affected by construction of the Project or by construction-related traffic and specify measures to minimize the impacts on these land uses.

c. Geologic, Historic and Scenic or Park Resources

Describe the geologic, historic, and scenic or park resources that may be affected by construction of the Project or by construction-related traffic and specify measures to minimize impacts on these resources. Indicate the procedures that were followed to identify such resources and specify the measures that will be taken to protect or preserve these resources. Reports prepared to identify and analyze such sites shall be made available to Department of Public Service (“DPS”) Staff upon request.

d. Recreation Areas

Explain how proposed or existing recreation areas will be avoided or accommodated

during construction, operation, and maintenance of the Project.

8. Access Roads, Lay-down Areas and Workpads

- a. Discuss the necessity for access to the ROW, including the areas where temporary or permanent access is required; and the nature of access improvements based on natural features, equipment constraints, and vehicles to be used for construction and maintenance, and the duration of access needs through restoration and the maintenance of the Project.
- b. Discuss the types of access which will be used and the rationale for employing that type of access including consideration of:
 - i. temporary installations (e.g., corduroy, mat, fill, earthen road, geotextile underlayment, gravel surface, etc.);
 - ii. permanent installations (e.g., cut and fill earthen road, geotextile underlayment, gravel surface, paved surface, etc.);
 - iii. use of roads, driveways, farm lanes, rail beds, etc.; and,
 - iv. other access, e.g. helicopter or barge placement. For each temporary and permanent access type, provide a figure or diagram showing a typical installation (include top view, cross section, and side view with appropriate distances and dimension). Where existing access ways will be used, indicate provisions for upgrading to meet appropriate standards.
- c. Indicate the associated drainage and erosion control features to be used for access road construction and maintenance. Provide diagrams and specifications (include plan and side views with appropriate typical dimensions) for each erosion control feature to be used, such as:

- i. staked straw bale or check dam (for ditches or stabilization of topsoil);
 - ii. broad-based dip or berm (for water diversion across the access road);
 - iii. roadside ditch with turnout and sediment trap;
 - iv. French drain;
 - v. diversion ditch (water bar);
 - vi. culvert (including headwalls, aprons, etc.);
 - vii. sediment retention basin (for diverting out-fall of culvert or side ditch);
and,
 - viii. silt fencing.
- d. Indicate the type(s) of stream crossing method to be used in conjunction with temporary and permanent access road construction. Provide diagrams and specifications (include plan and side view with appropriate dimensions) for each crossing device and rationale for their use. Stream crossing devices may include but not be limited to:
 - i. timber mat;
 - ii. culverts including headwalls;
 - iii. bridges (either temporary or permanent); and,
 - iv. fords.
- e. All diagrams and specifications should include material type and size to be placed in streams and on stream approaches.
- f. If access and workpad areas cannot be limited to upland areas, provide justification for any access and workpad areas which are proposed to be located in a wetland or stream or waterbody.

9. Noise Sensitive Sites

Specify procedures to be followed to minimize noise impacts related to ROW clearing, and construction and operation of the Project. Indicate the types of major equipment to be used in construction or Project operation; sound levels at which that equipment operates; days of the week and hours of the day during which that equipment will normally be operated; any exceptions to these schedules; and any measures to be taken to reduce audible noise levels caused by either construction equipment or Project operation.

10. Ecological and Environmentally Sensitive Sites

Indicate the procedures that were followed to identify ecological and environmental resources (e.g., archaeological sites; fish and wildlife habitat; rare, threatened, and endangered species or habitats; forest and vegetation; open space; areas of important aesthetic or scenic quality; deer winter yards) and specify the measures that will be taken to protect or preserve these resources. Reports prepared to identify and analyze such sites shall be identified, and made available upon request.

11. Invasive Species of Special Concern

- a. Provide an invasive species prevention and management plan for invasive species of special concern, prepared in consultation with DPS Staff, NYSDEC, and NYSDAM, based on the pre-construction invasive species survey of invasive species within the ROW.
- b. The plan shall include measures that will be implemented to minimize the introduction of invasive species of special concern and the spread of existing invasive species of special concern during construction (e.g., soil disturbance, vegetation clearing, transportation of materials and equipment, and landscaping/revegetation).

12. Herbicides

- a. Specify the locations where herbicides are to be applied. Provide a general discussion of the site conditions (e.g., land use, target and non-target vegetation species composition, height, and density) and the choice of herbicide, formulation, application method, and timing.
- b. Describe the procedures that will be followed during application to protect non-target vegetation, streams, wetlands, potable waters and other water bodies, and residential areas and recreational users on or near the ROW.

13. Fugitive Dust Control

Specify appropriate measures that will be used to minimize fugitive dust and airborne debris from construction activity.

14. Petroleum and Chemical Handling Procedures

- a. Include a plan for the storage, handling, transportation, and disposal of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances which may be used during, or in connection with, the construction, operation, or maintenance of the Project. Address how to avoid spills and improper storage or application in the vicinity of any wetland, river, creek, stream, lake, reservoir, spring, well, or other ecologically sensitive site, or existing recreational area along the ROW and access roads.
- b. Include a plan for responding to and remediating the effects of any spill of petroleum, fuels, oil, chemicals, hazardous substances, and other potentially harmful substances in accordance with applicable State and Federal laws, regulations, and guidance, and include proposed methods of handling spills of petroleum, fuels, oil, chemicals,

hazardous substances, and other potentially harmful substances which may be stored or utilized during the construction and site restoration, operation, and maintenance of the Project.

15. Environmental Supervision

- a. Describe protocols for supervising demolition, vegetation clearing, use of herbicides, construction, and site restoration activities to ensure minimization of environmental impact and compliance with the environmental protection provisions specified by the Certificate.
- b. Specify the titles and qualifications of personnel proposed to be responsible for ensuring minimization of environmental impact throughout the demolition, clearing, construction, and restoration phases, and for enforcing compliance with environmental protection provisions of the Certificate and the EM&CP. Indicate the amount of time each supervisor is expected to devote to the project.
- c. Specify responsibilities for personnel monitoring all construction activities, such as clearing, sensitive resource protection, site compliance, EM&CP change notices, etc.
- d. Explain how all environmental protection provisions will be incorporated into contractual specifications, and communicated to those employees or contractors engaged in demolition, clearing, construction, and restoration.
- e. Describe the procedures to “stop work” in the event of a Certificate violation.
- f. Identify the company’s designated contact including 24/7 emergency phone number, for assuring overall compliance with Certificate conditions.

16. Clean-up and Restoration

Describe the Certificate Holder’s program for ROW clean-up and restoration, including:

- a. the removal of any temporary roads; restoration of lay-down or staging areas; the finish grading of any scarified or rutted areas; the removal of waste (e.g. excess concrete), scrap metals, surplus or extraneous materials or equipment used;
- b. plans, standards and a schedule for the restoration of vegetative cover; including, but not limited to, specifications to address:
 - i. design standards for ground cover:
 1. species mixes and application rates by site;
 2. site preparation requirements (soil amendments, stone removal, subsoil treatment, or drainage measures);
 3. acceptable final cover % by cover type;
 - ii. planting installation specifications and follow-up responsibilities;
 - iii. a schedule or projected dates of any seeding and/or planting; and,
 - iv. plans to prevent unauthorized access to and along the ROW.

17. Visual Impact Mitigation

Provide details of screening or landscape plans prescribed at road crossings and for adjacent property owners. Discuss existing or proposed landscape planting, earthwork, or installed features to screen or landscape substations and other Project components.

18. ROW Encroachment Plan

Provide detailed plans for identifying and resolving potential encroachments to the existing and proposed ROW.

19. Wetland Mitigation Plan

Provide a proposal to address wetlands mitigation, for all permanent impacts to State-regulated wetlands and Federally- regulated wetlands, if prescribed by the Army Corps of

Engineers, including, but not limited to, the permanent conversion of forested wetland to scrub-shrub wetland. If such proposal is to prepare a detailed mitigation plan for State regulated wetlands, it shall separately address impacts to each of the wetlands benefits described in ECL § 24-0105(7). Plans shall provide for wetland mitigation in the same watershed to the maximum extent possible.

APPENDIX F

**SPECIFICATIONS FOR WETLAND AND WATERBODY
CONSTRUCTION COMPONENTS AND A WETLAND MITIGATION
PLAN**

These Specifications are for the New York Power Authority’s (“NYPA” or the “Certificate Holder”) development of the wetland and waterbody construction components of the Environmental Management and Construction Plan (“EM&CP”) and the Wetland Mitigation Plan. If any particular requirement of these Specifications is not applicable, so indicate and briefly explain.

Wetland and Waterbody Construction Plans

1. Show and quantify the extent of clearing and ground disturbance in each wetland, state-regulated wetland adjacent area and waterbody on drawings to be filed separately in Case No. 18-T-0207, or in another agreed upon manner, for each segment of the Project at the same time that an EM&CP is filed for that segment.
2. In addition to the requirements in the EM&CP Specifications, the wetland and waterbodies summary tables shall also include the following information for each wetland and waterbody located within the ROW and along access roads: proposed structure/disturbance type; New York State Department of Environmental Conservation (“NYSDEC”) classification code; wetland covertype; wetland functions and values for permanent wetland impacts; total area of temporary disturbance; total area of permanent impact (sq. ft.); conversion of forested and scrub-shrub wetlands (sq. ft.); and stream flow designation (i.e., perennial, intermittent or ephemeral).
3. Provide a narrative description of construction activities within wetlands, state-regulated wetland adjacent areas and waterbodies outlining the following requirements:

Case 18-T-0207 – Appendix F of the Joint Proposal

- a. Where any temporary or new permanent access roads are to be constructed through wetlands, a layer of geotextile fabric shall be placed across the wetland before any backfilling occurs;
- b. In the event that construction results in an alternation (i.e., lowering) of wetland hydrology the breach shall be immediately sealed, and no further activity shall take place at that location until the Staff of the New York State Department of Public Service designated to represent the public interest in this proceeding (“DPS Staff”) and NYSDEC staff are notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved by DPS Staff and NYSDEC;
- c. Measures and details demonstrating how work areas will be isolated from flowing streams and standing water in wetlands; a plan for handling and discharge of waters accumulated in the isolated work area to ensure settling and filtering of solids and sediments before water is returned to a wetland or waterbody; and a discussion of the measures to re-establish pre-construction contours, stabilize and revegetate the area immediately following the completion of work.;
- d. Measures to minimize impacts to fish and wildlife during wetland and waterbody construction including returning animals that become trapped within work areas to an appropriate and safe location outside of the work area; and
- e. Procedures to completely remove excess materials to upland areas more than 100 feet from wetlands and waterbodies, to the maximum extent practicable.

Stream Crossing Plan

1. A site-specific Stream Crossing Plan shall be developed for each new permanent stream crossing and shall include the following:
 - a. Detailed plan, longitudinal profile and cross-sectional view plans;
 - b. Drainage area and flow calculations; and
 - c. Location, quantity and type of fill.

2. Bridges that span the stream bed and banks should be utilized where practicable. If a bridge is not practicable, an alternative analysis shall be provided, including written justification for why a bridge is not practicable. If a culvert is the only practicable option for any new permanent stream crossings with a classification of C or higher (or continuously flowing natural stream that is a tributary to a stream with a classification of C or higher), it shall be designed as follows:
 - a. To safely pass the 1% annual (100-year return) chance storm event;
 - b. To contain native streambed substrate or equivalent using an open bottom arch, three-sided box culvert, or round/elliptical culvert with at least 20% of the culvert height embedded beneath the existing grade of the stream channel at the downstream invert;
 - c. Shall be a minimum width of 1.25 times (1.25X) the bankfull width of stream channel;
 - d. The slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than 3%, an open bottom culvert, where practicable; and

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- e. Shall facilitate downstream and upstream passage of aquatic organisms.

Wetland and Waterbody Restoration Plan

A plan to restore wetlands and waterbodies, including the following measures and details:

1. Restoration of pre-construction conditions and stabilization of disturbed wetlands and waterbodies within 48 hours or as soon as practicable of final construction;
2. Revegetation of disturbed wetlands, state-regulated wetland adjacent areas, and stream banks with native plants. Appropriate native wetland species mixes (e.g. Ernst Wetland Mix (OBL-FACW Perennial Wetland Mix, OBL Wetland Mix, Specialized Wetland Mix for Shaded OBL-FACW) or equivalent); plantings; and/or crop seed mixes consistent with existing, continued agricultural use shall be specified, as appropriate, which shall not interfere with the operation of the Project.
3. Monitoring of restoration areas for a minimum of 5 years or until an 80% cover of native plant species with the appropriate wetland indicator status has been reestablished over all portions of the restored area;
4. Development of a Wetland Planting Remedial Plan (“WPRP”) in the event the criteria for restoration (80% native species cover) is not met at the end of the second year of monitoring. The WPRP shall evaluate the reasons for these results, including an analysis of poor survival; corrective actions to ensure a successful restoration; and a schedule for conducting remedial work. Once approved by the agencies, the WPRP shall be implemented according to the approved schedule;

Wetland Mitigation Plan

A plan to mitigate for unavoidable loss of wetland functions and values, including the following:

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1. The creation of compensatory wetlands at a ratio that is consistent with current state and federal guidance: emergent marsh 1:1, scrub-shrub wetland 1.5:1, and forested wetlands 2:1;
2. A construction timeline for mitigation activities;
3. Construction details for meeting all requirements contained in the Wetland Mitigation Plan;
4. Performance standards that meet state and federal requirements for determining wetland mitigation success;
5. Specifications for post construction monitoring for 5 years after completion of the wetland mitigation;
6. After each monitoring period the Certificate Holder shall take corrective action for any areas that do not meet the above referenced performance standards to increase the likelihood of meeting the performance standards after 5 years; and
7. If, after 5 years, monitoring demonstrates that the wetland mitigation is still not meeting the established performance standards, the Certificate Holder must submit a “Wetland Mitigation Remedial Plan”. The remedial plan must evaluate the likely reasons for not achieving performance standards, describe the actions necessary to correct the situation to ensure a successful mitigation, and the schedule for conducting the remedial work. Once approved by DPS and NYSDEC, the “Wetland Mitigation Remedial Plan” will be implemented according to an approved schedule.

APPENDIX G
PROPOSED 401 WATER QUALITY CERTIFICATION

APPENDIX G
PROPOSED 401 WATER QUALITY CERTIFICATION

NEW YORK PUBLIC SERVICE COMMISSION
WATER QUALITY CERTIFICATION

Pursuant to: §401 of the Federal Water Pollution Control Act, 33 U.S.C. §1341, and Article VII of the New York Public Service Law

Certification Issued to: **Power Authority of the State of New York**
d/b/a New York Power Authority
123 Main Street
White Plains, New York 10601

Project Description and Location

The Power Authority of the State of New York, d/b/a New York Power Authority (“NYPA”) has proposed a project (the “Project”) that involves rebuilding the 86-mile Moses-Adirondack 1 & 2 transmission lines (“MA1&2”) and constructing new 345 kV switchyards at the existing Moses Switchyard and at the Adirondack Substation. The MA1&2 lines will be rebuilt as two single-circuit 345 kV lines, predominantly on steel monopoles, operated initially at 230 kV. The existing MA1&2 right-of-way (“ROW”) is 250 feet wide and the Project will be constructed primarily within the existing ROW, except for an approximate one-mile section at SUNY Canton where the MA1&2 lines will be rebuilt along the western edge of the campus. The Project is described in detail in the administrative record of Case 18-T-0207. This record includes a detailed description of the Project’s location and the surface water bodies traversed by the Project ROW.

Construction, operation and maintenance of the Project will be in accordance with the Certificate of Environmental Compatibility and Public Need (“Certificate”), the Environmental Management and Construction Plan (“EM&CP”), and NYPA’s Systemwide Long-Range Transmission Right-of-Way Vegetation Management Plan and Program.

Certification

The New York State Public Service Commission hereby certifies, pursuant to §401 of the Water Pollution Control Act (33 U.S.C. §1341) and Article VII of the New York Public Service Law that the Project, as conditioned herein, complies with applicable requirements of §§ 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act, as amended, and applicable New York State water quality standards, limitations, criteria and other requirements set forth in 6 NYCRR §608.9(a) and Parts 701 through 704, provided that all of the conditions listed herein are met. This certification (“Certification”) is issued in conjunction with the Article VII Certificate sought by NYPA in, and based on the record of, Case 18-T-0207.

Conditions

1. No in-water work shall commence until all pre-construction conditions relating to such work contained in the Certificate and any Order approving the EM&CP have been met to the satisfaction of the Department of Public Service.
2. Construction and operation of the Project shall at all times be in conformance with (a) the Application and Joint Proposal in Case 18-T-0207, to the degree not superseded by the Certificate, (b) all conditions of approval contained in the Certificate, (c) the EM&CP, and (d) all conditions incorporated in any order approving the EM&CP in Case 18-T-0207, to the extent such documents referenced in (c) and (d) above pertain to NYPA's compliance with New York State Water Quality Standards necessary and appropriate for issuance of, and compliance with, this Certification.
3. NYPA shall provide a copy of this Certification to the U.S. Army Corps of Engineers, along with a copy of the Application, Joint Proposal, Article VII Certificate, EM&CP, and order(s) approving the EM&CP in Case 18-T-0207 so that the U.S. Army Corps of Engineers will have a complete record of the conditions that apply hereto.
4. NYPA shall provide to all construction contractors performing work on the Project complete copies of this Certification, the Article VII Certificate, the approved EM&CP, and order(s) approving the EM&CP.

Certified by:

_____, Director
Office of Energy Efficiency and the Environment
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223