

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

_____)	
Application of Champlain Hudson Power)	
Express, Inc. and CHPE Properties, Inc. for)	
a Certificate of Environmental Compatibility)	
and Public Need Pursuant to Article VII of)	Case No. 10-T-0139
the Public Service Law for the Construction,)	
Operation and Maintenance of a High-)	
Voltage Direct Current Circuit from the)	
Canadian Border to New York City.)	
_____)	

**BRIEF ON EXCEPTIONS OF
CHAMPLAIN HUDSON POWER EXPRESS, INC. AND
CHPE PROPERTIES, INC.**

Champlain Hudson Power Express, Inc. (“CHPEI”) and CHPE Properties, Inc. (“CHPE Properties” and, collectively with CHPEI, the “Applicants”) submit this Brief on Exceptions pursuant to the Notice for Filing Exceptions in this proceeding issued by Acting Commission Secretary Jeffrey C. Cohen on December 27, 2012.

**INTRODUCTION AND
SUMMARY OF POSITION**

Applicants fully support the determinations made by Presiding Administrative Law Judges Michelle Phillips and Kevin Casutto (the “ALJs”) in their Recommended Decision issued in the case on December 27, 2012 (the “RD”), including their recommendations: (1) that most of the terms and conditions of the Joint Proposal in this proceeding, as amended, (the “JP”) be adopted by the Commission; (2) that a Certificate of Environmental Compatibility and Public Need for Applicants 1,000 MW High-Voltage Direct Current (“HVDC”) transmission facility (the “Facility”) be granted by the Commission; and (3) that a Water Quality Certification also be

granted for the Facility. However, Applicants have identified two minor factual errors in the RD that, when corrected, strengthen the basis for the conclusions reached by the ALJs in those portions of the RD. Applicants respectfully request that the Commission correct these two minor factual errors in the final order in this proceeding.

ANALYSIS

I. THE COMMISSION SHOULD CORRECT TWO MINOR FACTUAL ERRORS IN THE RD

A. The Portions Of The RD Summarizing Staff's Evidence On The Facility's Air Emissions Benefits Appear To Contain A Typographical Error Understating The Reductions In Carbon Dioxide Resulting From The Facility

In the last line of the first full paragraph on page 31, the RD states that Staff witnesses Gjonaj and Wheat calculated that the Facility would reduce emissions of carbon dioxide for New York State as a whole by 1.5 tons in 2018. The correct figure is 1.5 million tons in 2018.¹ Correcting this apparent typographical error will strengthen the support for the ALJs' conclusions concerning the air emissions benefits of the Facility.

B. The Finding In The RD That The Underground Portions Of The Facility Require A 35-Foot Right-Of-Way Conflict With The Express Provisions Of Proposed Certificate Condition No. 140

On page 105 of the RD, the ALJs correctly noted that one of the benefits of the Facility is that its underground right-of-way ("ROW") will limit the land use impacts of the Facility when compared to an overhead line design. In reaching this correct conclusion, however, the ALJs stated that the Facility's underground configuration "requires a 35-foot ROW to protect the cables." This statement is not supported by any evidence in the record in this proceeding, and is contrary to the express provisions of Proposed Certificate Condition No. 140, which states that:

¹ Tr. 246-247; Hearing Exhibit 204.

Each edge of the permanent overland Facility ROW shall be no closer than (a) when located entirely within lands owned or controlled by a railroad company or a public highway, six (6) feet to the outer surface of the nearest installed cable and (b), in all other areas, eight (8) feet to the outer surface of the nearest installed cable.

Thus, the Proposed Certificate Conditions approved by the ALJs in the RD are likely to result in a minimum required ROW width of substantially less than 35 feet over much of the Facility's overland route. Correcting this minor factual error will strengthen support for the ALJs' conclusions about the land use benefits of the Facility when compared to overhead transmission lines, while at the same time avoiding any future confusion about the width of the permanent ROW that Applicants will be required to secure for the Facility.

CONCLUSION

WHEREFORE, for the above-stated reasons, Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. respectfully request that the two minor factual errors in the RD identified herein be corrected in the final order in this proceeding.

Respectfully submitted,

/s/ George M. Pond

George M. Pond
Ekin Senlet
Hiscock & Barclay, LLP
80 State Street
Albany, New York 12207
(518) 429-4200

*Attorneys for Champlain Hudson Power
Express, Inc. and CHPE Properties, Inc.*

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