

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 12-T-0502 - Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades.

NOTICE SOLICITING COMMENTS

(Issued May 29, 2013)

The Commission recently issued an order in this proceeding that:¹ (1) established procedures for a comparative evaluation on a common record of proposed alternating current (AC) project applications to be filed pursuant to Article VII of the Public Service Law (PSL); (2) adopted modifications to the regulations at 16 NYCRR Parts 85, 86, and 88; and, (3) outlined additional steps that will be taken over the next several months to pursue the objectives set forth in the Commission's previous Order in this proceeding.² The Commission recognized that other rule changes might be necessary and directed Staff to propose such rules for publication pursuant to the State Administrative Procedure Act.

In order to implement the Commission's directives, Staff is proposing a rule to be applied in the review of the applications proposing alternative current (AC) transmission facilities that will increase transfer capacity through the transmission corridor that includes the Central East and UPNY/SENY interfaces and meet the objectives of the Energy Highway Task Force Blueprint. The primary goals of this rule are to ensure that appropriate procedures are in place to facilitate a comparative evaluation of multiple projects on a

¹ Case 12-T-0502, Proceeding on Motion to Examine Alternating Current Transmission Upgrades, Order Establishing Procedures for Joint Review under Article VII of the Public Service Law and Approving Rule Changes (issued April 22, 2013).

² Case 12-T-0502, supra, Order Instituting Proceeding (issued November 30, 2012).

common record, and that any such application contains pertinent information so the Commission may decide, in an expeditious manner, whether to approve a particular project(s). The rule changes being proposed would also specify how projects that are not subject to Article VII of the Public Service Law will be reviewed (including the content of applications), and set forth requirements regarding procedures and scoping, the contents of applications for projects subject to Article VII, and public outreach.

NOTICE is hereby given that any parties wishing to comment on Staff's proposal may submit comments to the Secretary by e-filing through the Department's Document and Matter Management System (DMM),³ or by e-mail to the Secretary at secretary@dps.ny.gov, on or before July 29, 2013. Early submission of comments is strongly encouraged. Parties unable to file electronically may mail or deliver their comments to Hon. Jeffrey C. Cohen, Acting Secretary of the New York State Public Service Commission, Three Empire State Plaza, Albany, New York, 12223-1350. A copy of Staff's proposed rule is attached. All comments submitted to the Secretary will be posted on the Commission's Web site and become part of the official case record.

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

Attachment

³ How to Register with DMM, <http://www.dps.ny.gov/e-file/registration.html>.

Proposed Rules for the Energy Highway Transmission Initiative

(CASE 12-T-0502)

May 29, 2013

Non-Article VII Projects

Parties sponsoring projects that are not subject to Article VII may participate in the proceeding for the purposes of seeking cost recovery in accordance with the following:

Such parties shall file, on or before October 1, 2013, a notice of their intent to participate and to seek funding.

No later than October 1, 2013, the sponsor of a non-Article VII project shall file (1) copies of all applications submitted to any state, local, or federal agency related to the proposed project; (2) a list of the permits and approvals that the project sponsor is required to obtain for the construction and operation of the project, and a schedule for the submission of any applications or other filings not provided under item (1); where a lead agency has been identified, a copy of the lead agency's determination of significance pursuant to the State Environmental Quality Review Act (SEQRA); (3) a copy of the environmental assessment form (EAF) reviewed by the lead agency in making its determination; (4) if the lead agency's determination of significance was positive, a schedule for the preparation and submission of a draft environmental impact statement (EIS), or a copy of the draft EIS as submitted to the lead agency; and (5) a demonstration of how and to what extent the proposed project meets the congestion relief objectives identified by the Commission in Case 12-T-0502.

Non-Article VII project sponsors shall provide any additional information that the presiding officer deems necessary to accomplish the comparative evaluation of their projects on a common record with any Article VII projects, in accordance with the schedule set by the presiding officer.

Procedures and Scoping

Following the filing of initial applications on October 1, 2013, the Office of Hearings and Alternative Dispute Resolution shall designate a presiding officer.

The presiding officer shall conduct a preliminary scoping process. The goals of the scoping process shall be to (1) establish the types of and methodologies for the studies that each applicant will submit in support of its proposed project; (2) identify any potential for consolidation of issues and coordination of studies and data collection; and (3) establish a schedule for the completion of the applications and the conduct of any hearings. Non-Article VII projects shall participate in the scoping process for purposes (2) and (3).

The schedule shall provide for the conclusion of hearings at the earliest date practicable, taking into account both the reasonable needs of the parties and the Commission's directive that projects should come into service no later than 2018. The presiding officer may disqualify a project from participation in the common record evaluation for failure to comply with the schedule.

Agencies, parties, and the public may provide written comments on the draft scopes and schedules provided by the applicants. The presiding officer shall determine a deadline for the submission of such comments. Following the expiration of the comment period, applicants shall file final scoping documents.

The presiding officer shall organize the parties' presentations to allow for application-specific and comparative findings. The findings required by Section 126(1)(a), (b), (d), and (f) of the Public Service Law (PSL) shall be made on an individual record for each proposed Article VII transmission line. The following issues shall be addressed and determined on a common record:

Minimum adverse environmental impact (PSL Section 126(1)(c));

Public interest (PSL Section 126(1)(g));

Cost and risk to ratepayers;

Best fit to the Commission's objectives; and

Any other factors that the presiding officer determines should be evaluated on a common record in order to comply with the PSL and the requirements of the Commission's orders.

Additional Application Requirements

In order for the Secretary to determine that an application for a certificate complies with the PSL and implementing rules and regulations, such application must contain the following information:

- (1) A demonstration that the applicant has acquired all rights of way necessary to construct, operate, and maintain the project; or
- (2) If the applicant cannot satisfy subsection (1), a demonstration that the applicant has identified the owners of any land that the applicant believes will be necessary for construction, operation, and maintenance of the project; and
- (3) Proof of service of a notice complying with the requirements of subpart 85-2.10(c) on each landowner so identified.

Exhibit E-4 submitted with the initial application materials shall include a demonstration of how and to what extent the proposed transmission project meets the congestion relief objectives identified by the Commission in Case 12-T-0502. Such exhibit need not contain the results of the NYISO studies required by 16 NYCRR Section 88.4(a)(4), but such results must be provided before an application can be determined to comply with the PSL.

In complying with the requirements of 16 NYCRR Section 86.4, an applicant must describe any reasonable alternative location for the proposed facility, the comparative merits and detriments of any such alternative, and the reasons why the proposed location is best suited for the facility.

Public Outreach

No later than October 1, 2013, Article VII applicants shall make information concerning their projects available to the public at no charge on a web site. At a minimum, an applicant shall provide (1) the draft and final scoping documents; (2) the contents of its application material, except for any portions that have been filed with the Commission as confidential; (3) the name, email address, and telephone number of a contact person who will assist members of the public with questions about the project; (4) an electronic link to the case on the DPS web site; and (5) a schedule identifying the date, time, and place of any public hearings or public information sessions concerning the project. Applicants shall maintain their project web sites until the Commission makes its certification decision, and shall ensure that the information posted there is kept up to date.

Applicants shall also provide information to members of the public through public information sessions. Applicants shall confer with the presiding officer and any municipal parties during the scoping process to establish a schedule for public information sessions. The presiding officer may require the applicants to conduct joint public information sessions where more than one project affects the same community or communities.