

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of
NEW YORK REGIONAL INTERCONNECT, INC.
Case 06-T-0650
April 1, 2009

Prepared Testimony of:
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Division of Fish and Wildlife
The New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233

1. Q. Mr. Jacobson, please state your name and business address.

2. A. My name is Roy A. Jacobson, Jr.

3. Q. By whom and in what capacity are you employed?

4. A. I am employed by the New York State Department of Environmental

5. Conservation (NYSDEC or DEC), Division of Fish, Wildlife and Marine

6. Resources, as a Biologist 3 (Ecology). I am currently the Head of the

7. Landscape Conservation Section within the Bureau of Habitat in the

8. Division of Fish and Wildlife and Marine Resources. In that position, I

9. oversee the Department's regulatory Freshwater Wetlands; Protection of

10. Waters; and Wild, Scenic, and Recreational Rivers programs. In addition, I

11. oversee the New York Natural Heritage Program; the Division of Fish,

12. Wildlife, and Marine Resources Watershed Conservation program; and

13. regional Bureau of Habitat staff for Regions 1, 2 and 3. My resume has

14. previously been submitted as NYSDEC-RJ-1.

15. Q. Mr. Jacobson, what is the reason for your testimony today?

16. A. I am here to compare the potential impacts from the CARI Thruway

17. Alternative with other alternatives and to demonstrate, at least with the question

18. of wetlands, the dramatic environmental difference between the CARI Thruway

19. alternative and the other routes suggested by NYRI.

20. Q. Why do this now?

21. A. As the PSC also notes, "extraordinary circumstances" are present in

22. this instance that mandate the further development of the record in this

23. proceeding on "CARI's Thruway Alternative." The Commission's decision has

1. therefore clarified that the record shall be open to allow the parties to
2. “persuade[e] the Commission that an alternative route, project or action exists
3. that would be more beneficial than the proposed project such that the proposed
4. project should be rejected.” (March 10 Orders, Page 21.)

5. Q. What “extraordinary circumstances” are present here?

6. A. As I read the March 10 Order, “extraordinary circumstances exist when “the
7. ruling will result in an irrevocable exclusion of information from the record that
8. would render the Commission unable to conduct the analysis required under the
9. relevant provisions of the PSL or whether the ruling would result in an
10. irrevocable exclusion of information that may serve as the basis for the
11. Commission’s decision in the proceeding.” (Order at 20, 21.)

12. Q. How does this relate to your job?

13. A. From my position at DEC, my specific job is to ensure that the programs I
14. am involved with “conserve, improve and protect its natural resources and
15. environment and control water, land and air pollution in order to enhance the
16. health, safety and welfare of the people of the state and their overall economic
17. health well being.”(ECL 1-0101) In that vein, I want to ensure that all possible
18. routes for the NYRI project have been explored thoroughly for environmental
19. compatibility and/or adverse impacts, and that the route having the least impact
20. on the environment be immediately apparent to the Commission when it conducts
21. its review of the record in this proceeding and makes its findings under section
22. 126 of the Public Service Law.

1. Q. Where in the Environmental Conservation Law is protection of the state's
2. resources addressed?

3. A. The ECL addresses this in ECL Sec. 3-0301, where it states that in order to
4. carry out the policy of state articulated in ECL 1-0101 (1) (b), DEC shall:
5. "Promote and coordinate management of water, land, fish, wildlife and air
6. resources to assure their protection, enhancement, provision allocation and
7. balanced utilization consistent with the environmental policy of the state, and
8. taking into account the cumulative impact upon all such resources in making any
9. determination in connection with any license, order, permit, certification or
10. another similar action or promulgating any rule or regulation, standard or
11. criterion...." (3-0301 (1) (b))

12. Q. Why should we review the Thruway alternative in this process?

13. A. It is necessary to review the Thruway alternative precisely for the reasons set
14. forth by the Commission in its March 10, 2009 Order Upon Interlocutory
15. Review. As noted above, the Commission's Order acknowledges due diligence
16. and adherence to the environmental principles articulated in both Article 1 (Sec. 5
17. (2) "The Commission shall encourage all persons and corporations subject to its
18. jurisdiction to formulate and carry out long-range programs, individually or
19. cooperatively, for the performance of their public service responsibilities with
20. economy, efficiency and care for the public safety , the preservation of
21. environmental values and the conservation of natural resources." and in Article
22. VII (see, esp. PSL §126. (1) ©) requires that the deliberations mandated by §126

1. not proceed unless a record is made of the Thruway alternative's inherent
2. benefits. If SEQRA, the State Environmental Quality Review Act (ECL Sec. 8-
3. 0101), is an analogy to the environmental review being conducted in this Article
4. VII proceeding, then a fair and balanced review of feasible alternatives would be
5. an essential prerequisite to completing the environmental impact statement
6. (see ECL §8-0109 and 6 NYCRR §617.9)

7. **I am advised**

8. Q. What do we know about the impacts from the CARI Thruway Alternative?

9. A. Unfortunately, we have limited specific information. We only have a
10. general route with starting points and ending points, but do not have details
11. regarding the specific location of the line, specific construction details. Similar
12. to the way we are confronted by NYRI's Proposed Route and alternative routes, it
13. would be important for the Commission to have before it, for the purpose of
14. making its determinations and findings, the same information that DEC would
15. need to evaluate the project impacts and make regulatory determinations
16. regarding the standards for approval under New York State wetlands and stream
17. protection laws (Articles 24, 25 and 15 of New York Environmental
18. Conservation Law). Specifically, one would need such fundamental information
19. for the Thruway alternative that would include, but not be limited to:
20. 1) the specific amount, type, and extent of impacts to wetlands and wetland
21. benefits;
22. 2) delineation of all wetlands along the proposed and alternative
23. routes;

1. 3) the specific amount and type of impacts to streams;
2. 4) specific locations of the transmission line;
3. 5) detailed construction methods;
4. 6) detailed erosion and sediment control plans;
5. 7) detailed information on wetland restoration methods;
6. 8) a detailed invasive species management plan;
7. 9) specific locations and dimensions of access roads;
8. 10) construction lay-down areas;
9. 11) equipment storage areas;
10. 12) limits of disturbance to vegetation;
11. 13) extent of proposed mitigation, if any; and
12. 14) long term right-of-way maintenance

13. Q. Based on the limited information available, what conclusions can you
14. provide regarding the potential impacts on natural resources from the CARI
15. Thruway Alternative?

16. A. The Thruway alternative has substantially fewer potential impacts on
17. wetlands compared to other alternatives addressed in this proceeding (see Table
18. I).

19. Q. How was the information in Table 1 generated and what does
20. it represent?

21. A. The information contained in Table 1 was generated by the
22. Division of Fish, Wildlife, and Marine Resources' Habitat Inventory Unit. It
23. represents a simple analysis of the proposed corridors for four alternative routes

1. using existing data contained in the Department's Geographic
2. Information System 12.(GIS). For the NYRI Proposed Route and
3. Alternatives "D" and "K," a 150' wide corridor (75' on each side
4. of centerline provided by NYRI) was used for overhead sections
5. and a 50' wide corridor (25' on each side of centerline
6. provided by NYRI) was used for underground sections. A 150' wide corridor
7. (75' on each side of centerline provided by NYRI) was used for the Marcy
8. South route. A 100' wide corridor (50' each side of the centerline of
9. the West/North bound lane or eastern railroad line) was used for
10. the CARI Thruway Alternative. GIS software was used to "clip" sections of
11. mapped wetlands and streams contained within the corridor to determine the
12. number of wetland and stream segments contained within each alternative route.
13. In addition, all the "clipped" segments were added together to develop a total
14. acreage of wetlands and total length of stream contained in each
15. alternative route. The following existing datasets were used: New York
16. State Regulatory Freshwater Wetlands, National Wetlands
17. Inventory, and Water Quality Classifications. These data were
18. only used to roughly describe relative differences in the
19. quantity of impacts. It does not and cannot describe the quality
20. of these resources nor can it quantify specific impacts.

Table 1. Comparison of wetland and stream GIS coverages contained within four powerline routes associated with the New York Regional Interconnect (NYRI) project.				
	CARI Thruway Alternative ¹	NYRI Proposed Route ²	Marcy South Route ³	NYRI Proposal w/ "D" & "K" Alternatives ²
NYS Freshwater Wetlands in Proposed NYRI Corridor				
# of wetlands	15	43	31	36
Total area of wetlands (acres)	5	107	113	55
NWI Freshwater Wetlands in Proposed NYRI Corridor				
# of wetlands	43	247	163	189
Total area of wetlands (acres)	62	241	150	121
Streams in Proposed NYRI Corridor				
# of crossings	227	193	202	200
Total length (miles)	9 ⁴	10	16	10
¹ Assumed a 100' wide corridor				
² Assumed a 150' wide corridor for overhead installation and a 50' wide corridor for underground installation				
³ Assumed a 150' wide corridor				
⁴ Includes crossing of Hudson River = 2.9 miles				

1. Q. What assumptions were made in your analysis of the CARI proposed
2. Thruway Alternative?
3. A. Without a specific route identified, I assumed that the transmission line would
4. be installed somewhere within a 100' wide corridor centered on the westbound or
5. northbound travel lanes of the New York State Thruway or the eastern train tracks
6. for the portion of the proposed route south of the Tappan Zee Bridge. I recognize
7. that a corridor of much less than 100' would be necessary to install the underground
8. line, but I used a 100' wide corridor to obtain a better picture of all the potential wetlands
9. located adjacent to the Thruway.

1. Q. How do the potential impacts on wetlands from the CARI proposed Thruway
2. Alternative compare with the potential impacts from other alternatives?

3. A. Table 1 shows that the Thruway Alternative is likely to affect substantially
4. less wetland area than any other alternative being considered. In fact, the
5. Thruway Alternative will potentially affect an order of magnitude less area of
6. New York State wetlands compared to the next lowest impact alternative
7. (NYRI Proposal with "D" & "K" Alternatives).

8. Q. How do the potential impacts on streams from the CARI proposed Thruway
9. Alternative compared the potential impacts from other alternatives?

10. A. More streams would have to be crossed under the CARI proposed Thruway
11. Alternative than other proposed routes, but the total length of affected streams
12. appears to be less than other alternatives. This somewhat conflicting situation
13. is primarily a reflection of the angle with which the route corridors cross the
14. streams. More of the crossings contained in the CARI proposed Thruway
15. Alternative are perpendicular to the streams which provides for the shortest
16. distance for each crossing. In addition to having relatively short crossings, it
17. is likely that for many of these crossings, the streams are already contained
18. within a culvert. In situations were an existing culvert carries the flow of the
19. water, potential impacts on the stream and water quality are substantially
20. reduced or even eliminated. However, the Department does have concerns
21. regarding potential impacts on the Hudson River and other tidally influenced
22. waters from the installation of the line along the CARI proposed Thruway
23. Alternative. Because of the lack of detail in the proposal, it is difficult to

1. determine what, if any, impact on these important natural resources will occur
2. as a result of the alternative.

3. Q. Mr. Jacobson, are there any other possibilities for this proposal that have come
4. to your attention.

5. A. Yes, Andrew Cline, the General Manager-Transmission Maintenance, in his
6. direct testimony on behalf of the New York Power Authority, said that it would be
7. possible to convert the Marcy South Transmission lines to operate with DC current and
8. voltage (See Cline Testimony, page 3). He then was asked: "So, are you saying that the
9. Power Authority would be able to use its existing Marcy South infrastructure to
10. accomplish this with minimal impact to its right of way?" (Id). He answered: "Yes,
11. using the principle of consolidation and conversion, the existing right of way would be
12. used with little to no impact and significantly reduced cost." (Id). Both Mr. Malefyt and
13. Mister Snow both mentioned the idea of converting one of the Marcy South AC circuits
14. to a HVDC circuit. As Mr. Snow States:
15. "I concur with Mr. de Waal Malefyt that a system alternative utilizing an existing ROW
16. would be preferable to constructing a new ROW along the Marcy South. As he stated
17. in his direct testimony, "the first environmental preference would be a system alternative
18. that should be pursued by NYPA by converting one of the Marcy South AC circuits to a
19. HVDC circuit. This conversion of an existing facility would have minimal environmental
20. impacts. Several acres would have to be disturbed for two AC/DC converter stations"
21. (page 32, lines 23-24; page 33, lines 1-6). NYPA described such an alternative in its
22. Direct Testimony". On the face of that idea, it would appear that that an option that
23. would prevent a significant amount of environmental degradation that would achieve

1. compliance with both DEC and PSC law should be vigorously pursued by the
2. PSC. Not pursuing that idea, to me, would result in a decision that consists of an
3. irrevocable exclusion of information that may serve as the basis for the Commission's
4. decision in the proceeding.
5. Q. Has NYPA agreed to do any of these things?
6. A. No. It says it is awaiting the results of studies before undergoing a comprehensive
7. plan for the future (O'Connor Direct Testimony at Page 5).
8. Q. Why, then, bring this up now,
9. A. The DEC believes that failure to address these possibilities in depth will result in a
10. decision that consists of an irrevocable exclusion of information that may serve as the
11. basis for the Commission's decision in the proceeding." The conversion idea has been
12. brought up and it should be evaluated.
13. Q. Does this conclude your testimony?
14. A. Yes, it does.

