

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on February 6, 2020

COMMISSIONERS PRESENT:

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

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 APPROVING ENVIRONMENTAL MANAGEMENT  
AND CONSTRUCTION PLAN

(Issued and Effective February 6, 2020)

BY THE COMMISSION:

INTRODUCTION

On November 14, 2019, the Public Service Commission (Commission) issued a Certificate of Environmental Compatibility and Public Need<sup>1</sup> (Certificate) to the New York Power Authority (NYPA or the "Certificate Holder"), to rebuild the existing Moses-Adirondack (M-A) 1&2 230 kV transmission facility (Project

---

<sup>1</sup> Case 18-T-0207, Order Granting Certificate of Environmental Compatibility and Public Need (issued November 14, 2019) (Order Granting CECPN).

or Facility), pursuant to the requirements of Article VII of the Public Service Law (PSL). The Project, as proposed and subsequently authorized by the Commission, consists of rebuilding and operating NYPA's existing M-A 1&2 transmission lines and certain upgrades to the Robert Moses Switchyard and the Adirondack Substation. Although NYPA intends to design and construct the Project with the capacity to operate at 345 kV, the initial operating voltage will be 230 kV. The Project traverses through 12 towns from north to south: Massena, Louisville, Norfolk, Madrid, Potsdam, Canton, Russell, Hermon, Edwards and Pitcarin in St. Lawrence County, and Diana and Croghan in Lewis County.

The Project will be built in two phases starting from the Robert Moses Switchyard to the Adirondack Substation. Phase One will involve the rebuilding of approximately 78 miles of single-circuit, predominately wood pole H-frame structures, with two sets of single-circuit steel monopoles designed to operate at 345 kV. Additionally, NYPA will replace the existing shield wire on the first eight miles of the M-A 1&2 lines coming out of the Robert Moses Switchyard with optical ground wire cable. Phase Two will involve rebuilding eight miles of existing double-circuit steel lattice structures coming out of the Robert-Moses Switchyard and rebuilding 0.4 miles of single-circuit steel lattice structures into the Adirondack Substation with single-circuit steel monopoles and constructing new 345 kV switchyards at the Robert Moses Switchyard and the Adirondack Substation.<sup>2</sup>

---

<sup>2</sup> Further details regarding the technical specifications of the Project, the procedural history leading to the granting of the Certificate, the need for the Project, and a description of the Certificate Conditions for Commission approval of the Joint Proposal can be found in the Commission's Order Granting CECPN.

The Certificate Conditions contain several requirements for compliance, including a requirement that NYPA submit for public review and Commission approval, plans detailing the Facility design, construction and environmental controls (the Environmental Management and Construction Plan or EM&CP).<sup>3</sup>

NYPA filed a proposed EM&CP for approval on December 20, 2019. Public notice of the filing of the EM&CP for review and comment was served on each party on the Service List and published in one local newspaper, in accordance with Certificate Condition 33 of the Certificate. The 30-day comment period ended on January 18, 2020. No public comments were received. Comments were formally submitted by the Department of Environmental Conservation (NYSDEC). Informal comments were submitted to NYPA by the Staff of the Department of Public Service (DPS Staff or Staff) and Staff of the Department of Agriculture and Markets (NYSDAM). NYPA addressed these comments in its revised EM&CP, filed on January 24, 2020.

This Order approves the EM&CP so that NYPA may begin construction and installation of the transmission Facility, pursuant to the Certificate.

#### THE EM&CP, COMMENTS AND RESPONSES

As filed on December 20, 2019, and revised on January 24, 2020, NYPA's EM&CP provides both typical and site-specific techniques, procedures and requirements to be followed in the development of the Project by NYPA to ensure environmental protection. The EM&CP identifies and defines the various facilities and environmental features within the existing and new right-of-way (ROW); construction access;

---

<sup>3</sup> Id., (Certificate Conditions 21 - 36).

protective measures for streams, wetlands, threatened and endangered species, agricultural lands, cultural resources, scenic resources and recreational areas; and NYPA's organizational framework to ensure implementation of the EM&CP. The standards for the EM&CP are described in the Joint Proposal agreed upon by NYPA, DPS, NYSDEC and NYSDAM. Upon notice of NYPA's December 20, 2019 EM&CP, the following comments were received.

NYSDEC

NYSDEC's January 17, 2020 comments focus on three items in the EM&CP. First, NYSDEC expressed concern about the pre-Application wetland delineations, which utilized the 1987 United States Army Corps of Engineers' (USACE) Wetland Delineation Manual, and requested that NYPA re-delineate the limits of disturbance on Phase One, Segments 2 and 3 and Phase 2 using NYSDEC's Freshwater Wetlands Delineation Manual (July 1995). The Commission is advised that, in discussion between NYSDEC Staff and DPS Staff, it was agreed that NYPA's current wetland delineations for this Project complied with applicable regulations and are acceptable,<sup>4</sup> and that any further environmental protections of wetland resources (e.g., temporary matting) will be discussed and determined during EM&CP field review of Phase One, Segments 2 and 3 and Phase 2.

NYSDEC further commented that, based on review of NYPA's wetland delineation and the EM&CP Plan and Profile drawings for Phase One, Segment 1, their Staff identified three locations on the Plan & Profile drawings where NYPA's planned road type would result in approximately 0.23 acres of permanent

---

<sup>4</sup> The USACE Wetland Delineation methodology has been found acceptable to NYSDEC in numerous prior Article VII cases (e.g., 11-T-0068, 11-T-0534, and 13-T-0235).

impacts to NYS Freshwater Wetlands within known sensitive species habitat. NYPA has agreed to change the road type in the three identified locations to temporary matting to avoid impacting these resources. Consequently, the Commission is advised that NYSDEC accepts the Plan & Profile drawings for Phase One, Segment One as NYPA has addressed NYSDEC's comments in the January 24, 2020 revised EM&CP.

NYSDEC's second comment concerns protection requirements contained in the Blanding's Turtle Avoidance, Protection and Net Conservation Benefit Plan. NYSDEC has requested that the Plan incorporate language that follows the same protection protocols identified during Project construction for the removal of temporary mats/pads and exclusionary fencing and the subsequent restoration of said areas disturbed by these temporary structures. The Commission is advised that NYSDEC's comment was adequately addressed by NYPA in the January 24, 2020 revised EM&CP.

In addition to the above comment, NYSDEC stated that in recent correspondence between the Agency and NYPA, it was mutually agreed upon that a NYSDEC acceptable Blanding's Turtle Avoidance, Minimization, and Net Conservation Benefit Plan will be finalized within six months after commencement of construction per Certificate Condition 88 of the Order Granting CECPN. The result of this discussion is captured in the January 24, 2020 revised EM&CP.

NYSDEC's third comment concerns the Invasive Species Plan. NYSDEC states that their Staff and NYPA have been actively engaged in revisions to the Invasive Species Plan, including several changes that NYPA has agreed to. Additionally, the Commission is advised that NYSDEC has agreed to limit adaptive management to NYSDEC jurisdictional areas, although it maintains invasive species are subject to ECL § 9-

1703 (10) and 6 NYCRR Part 575, and are not limited by geographic scope in their management. Finally, the Commission is advised that NYSDEC accepts the revised Invasive Species Plan provided in the January 24, 2020 revised EM&CP.

DPS

DPS Staff reviewed the EM&CP and provided informal comments and recommendations to NYPA and its consultants. Written comments were provided by Staff and discussions occurred through participation in various field and document reviews with NYPA and its consultants. Many of the comments DPS Staff expressed to NYPA sought clarification and/or additional details of various portions of the proposed EM&CP. DPS Staff suggested revisions to culvert/construction plans, and the Plan and Profile designs as well as other parts of the EM&CP. Items to be clarified included on- and off-ROW access routes, structure and work pad placement, permanent work pad locations and design, and marshaling yard/staging site locations. DPS Staff also sought clarification on temporary versus permanent access road types. NYPA adequately addressed all of DPS Staff's comments in the January 24, 2020 revised EM&CP.

NYSDAM

NYSDAM Staff reviewed the EM&CP and provided informal comments and recommendations to NYPA and its consultants. NYSDAM Staff suggested revisions to the EM&CP Plan and Profile designs and other parts of the EM&CP. These suggestions included, but were not limited to, access road type and location, location and size of work pads, agricultural operator crossing design detail and locations of such crossings, and drain tile identification and repair. The Commission is advised that NYPA adequately

addressed all of DAM Staff's comments in the January 24, 2020 revised EM&CP.

DISCUSSION AND CONCLUSION

As noted above, DPS Staff, and other parties, raised numerous concerns regarding details of facility design, construction, component locations, and environmental impacts and mitigation, contained in the proposed EM&CP. The Certificate Holder submitted a revised EM&CP containing revised text, and revised Plan and Profile drawings and specifications to address the concerns raised by DPS Staff and other commenters. Upon review, the Commission finds that NYPA has adequately addressed those concerns. Based on a review of all the documents submitted, the comments received, and the responses and supplemental filings made by NYPA, the revised EM&CP for the Project is approved.

The Commission orders:

1. The revised Environmental Management and Construction Plan submitted by the New York Power Authority (NYPA or the "Certificate Holder") is approved subject to the following condition.
2. The Certificate Holder shall not commence construction until it has received a "Notice to Proceed with Construction" letter sent by the Deputy Director of the Environmental Certification and Compliance Section of the Office of Electric, Gas and Water.
3. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary