

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 15, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 11-T-0534 - Application of Rochester Gas and Electric Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the "Rochester Area Reliability Project," Approximately 23.6 Miles of 115 Kilovolt Transmission Lines and 1.9 Miles of 345 Kilovolt Line in the City of Rochester and the Towns of Chili, Gates and Henrietta in Monroe County.

ORDER ADOPTING TERMS OF AMENDMENT TO JOINT PROPOSAL
MODIFYING CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND
PUBLIC NEED AND ADDRESSING PETITIONS FOR REHEARING

(Issued and Effective September 15, 2016)

BY THE COMMISSION:

INTRODUCTION

In this order, we are adopting terms of an Amendment to Joint Proposal (AJP). This AJP is the culmination of several years' worth of persistence, hard work, creative thinking, and dedication by various persons and entities, in particular, the signatory parties. While the AJP's terms reflect an improved and more reasonable outcome, it must be acknowledged that this outcome could only be achieved at this point in time, because it is due, at least in part, to several key changes in the circumstances that existed when this proceeding was first

commenced, some of which occurred only after the record of this proceeding was reopened. These changes - - which include the ability to now use an existing federal easement for some of the routing of the new transmission circuits and additional time to address the reliability issues that triggered the need for this Project - - positively impacted the probabilities of achieving the outcome that is embodied in the AJP.¹

As a result, we are now presented with the opportunity to adopt terms of an AJP that will modify the Certificate of Environmental Compatibility and Public Need (Certificate) that we previously granted to Rochester Gas and Electric Corporation (RG&E) to construct the Rochester Area Reliability Project (RARP or the Project).² As a result of our decision to adopt such terms, the location of a new electric substation, Station 255, will be changed from the Town of Chili to the Town of Henrietta. The proposed routing of two new 115 Kilovolt (kV) lines, Circuits 940 and 941, will be altered such that, between the right-of-way of the Rochester and Southern Railroad (the Railroad) and the Genesee Valley Greenway State Trail, they will traverse property on which the U.S. Department of Agriculture (USDA) holds a conservation easement instead of crossing agricultural fields. And, the length of Circuit 40 will be shorter. All together, these modifications significantly reduce the impact of the RARP upon farming operations and upon agricultural lands. To the extent these modifications provide the relief sought in petitions for rehearing filed by the Krenzer family and the Town of Chili, those petitions are

¹ As noted below, this additional time is attributable to the implementation of a different project and to slower than expected load growth.

² Order Adopting the Terms of a Joint Proposal and Granting Certificate of Environmental Compatibility and Public Need, with Conditions (issued April 23, 2013) (Certificate Order).

granted; in all other respects, the petitions are denied, consistent with the discussion in this order.

BACKGROUND AND PROCEDURAL HISTORY

In September 2011, RG&E applied pursuant to Public Service Law (PSL) Article VII for a Certificate authorizing the construction, operation, and maintenance of the RARP. The RARP consists of 345 and 115 kV transmission lines, improvements to three existing substations, and construction of one new 345kV/115kV substation, Station 255. As originally contemplated in RG&E's application, starting from a point near existing Station 67 and heading southwest, new 115 kV Circuits 940 and 941 would have generally followed the route of the Railroad to a point in the Town of Chili that is just north of where existing 345 kV transmission lines owned and operated by the New York Power Authority (NYPA) cross the Railroad.³ At that point, the lines would have turned at a sharp angle to parallel the NYPA right-of-way heading due east towards RG&E's Station 80.

Between the Railroad and Station 80, RG&E originally proposed to construct a new substation, Station 255, on farmland already traversed by the NYPA line. At the time of the original RG&E application, this farmland, located between Scottsville Road and the west bank of the Genesee River, was owned by Thomas Krenzer. This station location has been identified throughout this proceeding as "Site 7." New Circuits 940 and 941 would

³ North from existing Station 67, Circuit 940 turns in a northwesterly direction to proceed for 3.5 miles to an existing substation in the Town of Gates (Station 418) along the existing National Grid-RG&E electric transmission corridor, while Circuit 941 continues along a NYPA right-of-way to an existing substation in the City of Rochester (Station 23).

have terminated at Station 255, and new 345 kV Circuit 40 would have exited Station 255, again heading east and paralleling the existing NYPA lines, ultimately terminating at existing Station 80.

A portion of the land through which the NYPA right-of-way currently passes is subject to a conservation easement held by the USDA. This property abuts the Railroad and is located at the corner where RG&E had proposed the new circuits to turn from the Railroad right-of-way to follow the NYPA right-of-way. RG&E did not attempt to obtain permission from the USDA to locate the line on the easement property. Instead, RG&E and the Department of Public Service Staff (Staff), Department of Environmental Conservation (DEC), and Department of Agriculture and Markets (Ag & Markets) agreed on a different routing, by which the lines bypassed the easement land and departed from the NYPA right-of-way, cutting in a "zig-zag" fashion across agricultural fields then owned by various members of the Krenzer family.⁴ This is the route proposed in the December 2012 Joint Proposal, terms of which were adopted by the Commission in the April 2013 Certificate Order.

On April 17, 2013, the day before the Commission session at which the proposed Certificate was considered and approved, Thomas Krenzer, Anna Krenzer, David Krenzer, and Marie Krenzer (the Krenzlers)⁵ submitted a letter challenging the siting of Station 255 and Circuits 940 and 941. The Krenzlers, not then

⁴ David Krenzer and his wife, Marie, farm the land on which Station 255 was proposed to be constructed (Site 7), the land adjacent to the Railroad right-of-way traversed by the "zig-zag" route of Circuits 940 and 941, and numerous other parcels that they own or lease, in a unified farming operation encompassing roughly 3,998 acres of land in Monroe County. Tr. 951.

⁵ Thomas Krenzer and Anna Krenzer, the parents of David Krenzer, were husband and wife.

parties to this proceeding, were the farmers and landowners on whose property Station 255 and the associated transmission lines and access roads were sited.⁶ On May 21, 2013, the Town of Chili (Chili) Supervisor requested that the Commission reopen the proceeding, and on May 23, 2013, Chili and the Krenzlers requested party status.

The Commission granted Chili's and the Krenzlers' requests for party status, but reserved judgment as to whether the record should be reopened to admit additional information on the merits of the substantive siting decisions made in the case.⁷ The Remand Order expressly noted that the Certificate Order was neither modified nor stayed, and urged RG&E to continue to prepare its Environmental Management and Construction Plan (EM&CP) in light of the reliability need for the Project. The Commission however remanded the matter for the limited purpose of reevaluating, on an expedited basis, the potential impacts to agricultural lands posed by Site 7, in light of allegations by the Krenzlers and the Town that they had not been consulted. An

⁶ It was the Commission's understanding that the Krenzlers had received notice of the original application proposing to locate Station 255 on the Krenzlers' farm. The record further indicated that there had been discussions between RG&E and the Krenzlers and the station's location was modified slightly in response to a request by the Krenzlers. The Krenzlers however had chosen not to participate formally in the case as a party. In the Certificate Order, the Commission concluded that the Krenzlers' objections were untimely, noting that until the day before the Commission session, no opposition to the JP had been received and that the participation and endorsement of the JP by DEC and Ag & Markets had ensured that impacts to agricultural lands and wetlands had been addressed. The Commission stated that the landowners could participate and seek relief in the Environmental Management and Construction Plan phase of this proceeding. Certificate Order at 12, note 24.

⁷ Order on Petitions for Rehearing (issued August 15, 2013) (Remand Order).

Administrative Law Judge (ALJ) was assigned to facilitate discussions among the parties in a settlement process and was directed to report the results of the review of the agricultural impacts within 30 days from the date of the order.

ALJ David Van Ort, assigned for the limited purpose of facilitating discussions among the parties pursuant to the Remand Order, submitted a final report on September 30, 2013, in which he explained that discussions among the parties yielded a "vigorous and thorough airing of the issues surrounding the routing of the various lines and the location of Station 255." Among the solutions discussed were two alternative locations for Station 255 and modifications of the route of Circuits 940 and 941. Nevertheless, the parties had not reached an agreement regarding the location of Station 255 or the route to be followed for Circuits 940 and 941, with the proponents of the December 2012 Joint Proposal (RG&E, Staff, DEC, and Ag & Markets) continuing to endorse its recommendations and the Krenzlers continuing to oppose them. Based on Judge Van Ort's report and the record developed to that point in time, the Commission reopened the record in this case by order dated November 15, 2013.⁸

The Reopening Order addressed both aspects of the siting decision we reach today. With respect to the routing of Circuits 940 and 941 through the USDA easement, the order stated that such a route

would have less agricultural impact than the certified "zig-zag" routing that traverses the Krenzlers' property. The window available to meet reliability needs appears to allow time for RG&E to exert maximum efforts to obtain access to the parcel under the federal easement. Such access would eliminate the need for the "zig-zag" and at

⁸ Order Reopening the Record For the Re-Examination of Location of Substation 255 and the Route of Circuits 40, 940 and 941, (November 15, 2013) (Reopening Order).

least partly alleviate the burden imposed on the Krenzlers' agricultural land.⁹

Consequently, the order directed RG&E to seek permission from USDA for a modification or release of the easement.

As for the location of Station 255, the Commission reopened the record for the limited purposes of allowing for a re-examination of alternative sites, including sites east of the Genesee River and sites proposed by the Krenzlers, and the associated changes to the routes of Circuits 40, 940, and 941 required to accommodate substation location alternatives. The Commission required the assigned ALJ (Judge Eleanor Stein) to conduct a screening process to eliminate alternatives entailing more severe environmental impacts than those associated with the certificated site and to develop the record so as to support the statutorily required findings that the site and route represent the minimum adverse environmental impact, taking into account the economics of various alternatives and considerations including impact on agricultural lands, wetlands, parklands and river corridors.¹⁰ Assuming any alternatives passed this screening, the ALJ was directed to expedite a process to bring this matter back to the Commission for a decision on whether the environmental and agriculture impacts of alternatives and the assessment of statutory factors other than need warranted a change to the certificated site or the routing for the RARP. RG&E was also required to inform potentially affected landowners and municipalities of the alternatives under consideration.

ALJ Stein established a process for the identification of all alternatives that might meet the Commission's criteria. The alternative identification process was focused on potential

⁹ Reopening Order at 11, noting that this routing option did not involve relocation of Station 255.

¹⁰ Id., citing PSL §126.

locations for Station 255. RG&E provided a schedule and process for its alternatives analysis, and parties were invited to propose potential alternative sites and to respond to RG&E's proposals. Following a procedural conference and commencement of discovery, on January 16, 2014, RG&E filed its assessment of 23 alternative site locations.¹¹ RG&E also filed a memorandum explaining its exclusion of one site from the detailed analysis and its rejection of certain proposed analytical criteria, both proposed by the Krenzlers.

Described by RG&E as quantitative in nature, the screening was a desktop analysis -- that is, neither site visits nor contact with landowners were entailed.¹² The 50-page Alternatives Analysis comprised a geographic description of 23 overall alternative sites, with 13 sites identified as "considered" -- that is, more likely -- alternatives. RG&E provided a summary of the methodology and the results, as well as detailed appendices relating to real estate and agricultural considerations, estimates of farming efficiency reduction, soils, wetlands and watercourses, location of floodplains, an inventory of cultural resources, a summary of visual impacts, and engineering considerations. Maps illustrating many of these considerations also were provided.

¹¹ RG&E's two-volume analysis is Hearing Exhibit 37.

¹² On January 21, 2013, the Krenzlers filed a motion to compel RG&E to include their site (termed by them the Station 80 site) in its quantitative analysis and to add certain proposed criteria to the RG&E analysis process. Judge Stein ruled that RG&E's removal of the Station 80 site reflected the fact that the site failed to provide the essential added reliability, as it was located too close to existing Station 80; and that the RG&E criteria were adequate as a desktop analysis, performed without site visits or premature discussions with potential affected landowners.

On February 12, 2014, a further procedural conference was held to assess the status of the proposals for alternative substation sites, and parties identified the need for additional information. At that conference, ALJ Stein removed a number of the possible alternative sites from consideration, leaving seven candidates: sites 5, 7 (the certificated site), 8, 8A, 9, 16, and 20. RG&E provided its completed alternative site analysis in several subsequent filings, including revised maps showing the location of residences near alternative sites; DEC also updated information concerning wetlands. On March 4, 2014, parties filed Statements of Position indicating their preferences among the remaining sites.

On March 12, 2014, based on consideration of the Public Service Law, Commission orders, the Alternatives Analysis, parties' statements of position, and the record as a whole up to that point, ALJ Stein eliminated from further consideration sites 5, 8, 8A, and 16, leaving three sites (with variants) still on the table: certificated Site 7, and two sites on the east bank of the Genesee River, Sites 9 and 20. Site 9, on the north side of the NYPA right-of-way, and Site 20, to the south of the NYPA right-of-way, were considered to have the least impact on agricultural land among the alternatives offered, and to have wetland impacts that could be mitigated.

For Site 7, RG&E's alternatives analysis proposed three alternative routes for Circuits 940 and 941 for the segment between the substation and the Railroad. The certificated route followed the "zig-zag" through David Krenzer's property in order to bypass the property on which USDA holds a conservation easement. The "conservation easement" route, referred to as the "7A" alternative, assumed that permission to cross the easement would be granted, such that Circuits 940 and 941 could follow the NYPA right-of-way in a

straight line all the way to the point where the right-of-way intersects with the Railroad. The "agricultural mitigation" route, or "7B," was a modification of the certificated route that reduced impacts on farming operations.

As proposed by RG&E in its alternatives analysis, the route of Circuits 940 and 941 associated with Sites 9 and 20 followed a new path, in each case exiting the station to the north and proceeding north and west to join the Railroad at a point north of where the NYPA right-of-way intersects the Railroad. This route was referred to as "the northern routing." Because Sites 9 and 20 and the northern routing impacted a new set of landowners and residents who had not previously received notice of or been involved in this case, Judge Stein's ruling required RG&E to provide actual notice to the municipalities and residents potentially affected by the selection of one of those substation sites or the associated northern routing of Circuits 940 and 941 by March 31.

On March 21, 2014, initial testimony as to the three remaining sites was filed by Staff, RG&E, Ag & Markets, and the Krenzlers. Rebuttal testimony was filed on May 8 by RG&E, Ag & Markets, DEC, the Krenzlers, and several new parties impacted for the first time by the potential selection of Sites 9 or 20 or the northern routing. These new parties included 4545 East River Road, LLC, which owns the property at Site 9 and the northern part of Site 20, as well as Rivers Run, LLC, a senior living community located near Site 9 and the northern routing of Circuits 940 and 941; and Fred and Susan Hagen, James Allen, and Judith Hook, the owners of two properties to the north of Site 7 that would be bisected by the northern routing of Circuits 940 and 941. Many of the residents who would be affected by the newly proposed alternate sites or the northern routing

participated in the public statement hearings, as discussed below.

Judge Stein presided over two public statement hearings in the Town of Chili on May 15, 2014, and also conducted site visits to the three remaining sites on the following day. All of the parties were invited to attend the site visits and most chose to do so.

After several postponements, evidentiary hearings were held on June 17-19, 2014.¹³ At the commencement of the hearing, the Krenzlers and 4545 East River Road, LLC, proffered a stipulation that advocated eliminating alternative Site 9 and the northern routing of Circuits 940 and 941 from further consideration in this proceeding.¹⁴ All other parties present - RG&E, Staff, DEC, and Ag & Markets - indicated assent or, at a minimum, no objection.¹⁵ By ruling issued June 25, 2014, Judges Liebschutz and Phillips eliminated from further consideration alternative Site 9 and the proposed northern routing of Circuits 940 and 941 from alternative Site 20, thereby narrowing the substation sites under consideration to certificated Site 7 and alternative Site 20. Thus, as of the ALJs' June 25, 2014 ruling, the route of Circuits 940 and 941 would be similar for either Site 7 or Site 20, with the route for Circuits 940 and 941 either (1) traversing the conservation easement, if permission were granted by USDA, or following (2) the certificated "zig-zag" route or (3) the modified, "agricultural mitigation" route.

¹³ A transcript was produced and, like all filings and issuances in this case, is available on the Department of Public Service's Document Matter Management system (DMM) (see Department website's at www.dps.ny.gov), as are the additional exhibits that were accepted into evidence.

¹⁴ See Hearing Exhibit 75.

¹⁵ See Tr. 248-266, 554-557.

Ag & Markets, RG&E, Staff, 4545 East River Road, LLC, and the Krenzlers submitted initial post-hearing briefs on July 31. Ag & Markets, RG&E, Staff, DEC, and the Krenzlers filed reply briefs in August. With the exception of 4545 East River Road, LLC,¹⁶ the parties that filed post-hearing briefs advocated approval of the conservation easement route for Circuits 940 and 941.¹⁷

With respect to the station location, Ag & Markets and the Krenzlers asserted that the Commission should modify the Certificate to provide for the construction and operation of Substation 255 at Site 20. The Krenzlers added that if the Commission found that the record needed further development in order to certify Site 20, then the Commission should grant the Krenzlers' Petition and remand the proceeding to an ALJ for further rehearing on the certification of Site 20.

RG&E, Staff and DEC argued that the Commission should confirm Certified Site 7 for Station 255. RG&E and Staff asserted that, with respect to the reliability need for this Project, timing was critical and the delay in the in-service date that would result from constructing the station at Site 20 would pose undue risks to the reliability of RG&E's electric system. They, along with DEC, asserted that the negative environmental impacts, particularly to wetlands, would be minimized by confirming Site 7. RG&E and Staff also cited the increased cost of constructing at Site 20 as an avoidable disadvantage of selecting that site. Finally, RG&E contended that the selection of Site 20 could negatively impact plans to

¹⁶ With the elimination of the Site 9 and Northern Routing alternatives, 4545 East River Road, LLC, refrained from briefing issues associated with the remaining alternatives.

¹⁷ Some argued that, if the conservation easement was not available in time to be certificated, then, the agricultural mitigation route should be certificated.

develop the land immediately adjacent to Site 20, potentially jeopardizing the many jobs that such plans could bring to the area.

On or about September 24, 2014, the USDA Natural Resources Conservation Service (NRCS) approved RG&E's request to modify the federal conservation easement, thus permitting use of the alternative routing referred to in this record as the conservation easement route.¹⁸ This route, RG&E's originally preferred route for Circuits 940 and 941 along the north side of the NYPA ROW, was advocated as the preferred route by most of the parties that submitted briefs in the reopened phase of this proceeding. Thus, with the NRCS's approval permitting use of the conservation easement route, the only remaining issue still being litigated was whether the station should be located at Site 7 or Site 20. This issue however was compounded by assertions concerning the immediacy of the reliability need and the associated projections of the required in-service date for the RARP.

By ruling issued on September 29, 2014, the ALJs propounded several questions to RG&E with a request for responses to be provided on or by October 6, 2014. The ALJs' questions concerned current or short term outage and customer load shed risks, issues that had been raised at the June 2014 evidentiary hearing and in the subsequent post-hearing briefs. With respect to these issues, the ALJs had concluded that supplemental record development would be helpful. After receiving RG&E's responses, the ALJs also sought and received Staff's review and analysis of RG&E's responses.

On December 23, 2014, RG&E advised the ALJs and the parties that a project it had developed in response to the

¹⁸ Hearing Exhibit 113.

threatened retirement of the R.E. Ginna Nuclear Power Plant would modify the RARP construction schedule such that the immediate construction of Station 255 was no longer required.¹⁹ RG&E reported that its Ginna Retirement Transmission Alternative (GRTA) project could be constructed relatively quickly and would allow RG&E to maintain reliability following the proposed retirement of the Ginna plant, mitigate the urgency of the RARP, and address other system reliability matters, such as identified stuck breaker contingencies. As a result, RG&E proposed that the RARP be completed in three phases, with the first phase being completed in 2019.²⁰

By ruling issued February 4, 2015, the ALJs invited parties to comment on the procedural implications of the modified RARP schedule outlined in the Company's December 23 letter. In particular, the ALJs sought parties' comment on reasons, if any, why RG&E should not conduct and submit the type of studies for the siting of Station 255 at Site 20 that it would have provided if that site had been proposed by the Company in its original Article VII application in this proceeding, and, if such studies were to be submitted, a reasonable deadline by which they should be filed. Comments were filed by Staff, DEC, the Krenzlers, RG&E, Empire Pipeline,

¹⁹ Case 14-E-0270, Petition for Initiation of Proceeding to Examine Proposal for Continued Operation of R.E. Ginna Nuclear Power Plant.

²⁰ According to RG&E the first phase would be the process of energizing Transformer 1 in Station 255 and Line 940. See Letter Regarding Modification of Schedule, dated December 23, 2014, from RG&E to ALJs Liebschutz and Phillips, DMM Filing No. 295.

Inc., and Ag & Markets on March 4.²¹ Reply comments were authorized and were filed on March 25 by Staff, RG&E, DEC, Ag & Markets, the Krenzlers, and the City of Rochester.²²

By rulings issued on April 24 and May 7, 2015, the ALJs required RG&E to file further studies of Site 20, accompanied by testimony adopting and sponsoring such studies, and adopted a schedule that allowed for the following procedural

²¹ On March 4, 2015, Empire Pipeline, Inc. (Empire), requested party status. It explained that it owns, operates and maintains a 24" high-pressure, natural gas transmission pipeline in the immediate area of the proposed RARP and wanted to ensure that its facilities are protected during the construction of the RARP, additional AC corrosion mitigation concerns are addressed in advance of the RARP, and its access to its facilities is not restricted due to siting of the proposed high-voltage electric transmission lines and the new substation. RG&E responded by noting that Empire's concerns relate to Site 20, adding that RG&E is mindful of the need to protect natural gas facilities in the area of the RARP, and will continue discussions with Empire, and will address Empire's AC mitigation concerns during the design phase of this Project. We grant Empire's request for party status, but note that, regardless of whether it has status as a party, Empire possesses the ability to advance its interests both through direct and presumably ongoing discussions with RG&E and by commenting on the EM&CP for Segment III of the RARP when it is filed.

²² The City of Rochester requested party status on March 23, 2015. Its request for party status and to reopen the record concerning visual impacts of the 3 miles of Circuit 941 that will run through the City of Rochester along with its comments concerning the same raised issues that were beyond the scope of the reopened record but that, at that time, such issues could have been (and, according to the City's suggestions were being) addressed as part of the EM&CP process for Segment II of the RARP. The EM&CP for Segment II was approved on July 21, 2015 (See Order Granting Amendments to Article VII Certificate and Approving Environmental Management and Construction Plan for Segment II (issued July 21, 2015)). The requests by the City of Rochester for party status and to further reopen this portion of the proceeding are denied as both untimely and unnecessary.

milestones: RG&E's submission of Site 20 studies due September 25, 2015; Staff and intervenor testimony in response to the studies due November 10, 2015; rebuttal due on December 1, 2015; and an evidentiary hearing commencing on December 15, 2015.²³ RG&E timely filed its Station 255-Site 20 Engineering and Impact Analysis Report (Site 20 Study) and the qualifications of the witnesses who sponsored the Site 20 Study; Staff, Chili, Ag & Markets and the Krenzlers timely filed responsive testimony; and RG&E and Ag & Markets timely filed rebuttal testimony.

By ruling issued December 11, 2015, the evidentiary hearing was adjourned.²⁴ Thereafter, it was postponed twice. The first postponement was granted in response to Staff's request to allow for exploratory discussions among the parties.²⁵ The second postponement was granted, without date, in response to the parties' request for more time to pursue the settlement discussions,²⁶ the notice of which had been filed by RG&E on February 3, 2016.²⁷

Also around this time, the Public Service Law was amended to require, in relevant part, that when granting a Certificate, the Commission must find and determine that the facility at issue "represents a minimum adverse impact on active farming operations that produce crops, livestock and livestock products ... considering the state of available technology and

²³ Ruling Requiring the Submission of Further Studies (issued April 24, 2015) and Clarification of Prior Ruling Requiring Submission of Further Studies (issued May 7, 2015).

²⁴ Thomas Krenzer passed away in December 2015.

²⁵ Ruling Granting Request to Postpone Evidentiary Hearing (issued January 29, 2016).

²⁶ Ruling Granting Motion to Postpone Evidentiary Hearing (issued February 8, 2016).

²⁷ In accordance with 16 NYCRR §3.9, the notice was reported to the Commission on February 3, 2016.

the nature and economics of various alternatives, and the ownership and easement rights of the impacted property.”²⁸

On June 17, 2016, following several months of negotiations, RG&E, on behalf of itself, Staff, DEC, Ag & Markets, and the Krenzlers, filed the Amendment to Joint Proposal (AJP). The AJP is accompanied by numerous appendices and supporting exhibits. Its terms are designed to amend the Joint Proposal that was executed by Staff, DEC, and RG&E in December 2012 and resolve the issues that were left open when the Commission granted party status to the Krenzlers and reopened the record in this case to reconsider the location of Station 255 and the associated routing of Circuits 40, 940, and 941 between existing Station 80, located in the Town of Henrietta, and the right-of-way of the Railroad in the Town of Chili. Comments on the AJP were requested by notice issued by on June 23, 2016. Only one (favorable) comment on the AJP has been received. Statements in Support of the AJP were filed by RG&E, Staff, DEC, Ag & Markets, the Krenzlers, and the Town of Henrietta.

There are two distinct components of the Project at issue in this stage of the proceeding. The first is the proposed location of Station 255, the new substation to be constructed as part of the RARP. The second are the routes of Circuits 940 and 941 as they approach the right-of-way of the Railroad.

DESCRIPTION OF PROPOSED AMENDMENTS TO THE PROJECT

The segment of the RARP affected by the AJP is shown in AJP Appendix B, Figure 1; this segment covers the portion of the RARP that lies between the Railroad right-of-way in the Town

²⁸ New PSL §126(1)(d) was added when the statute was amended by Chapter 521 of 2015, which took effect as of December 11, 2015.

of Chili and existing Station 80 located in the Town of Henrietta.

The AJP proposes the relocation of new Substation 255 from the currently certificated Site 7 to Site 20; associated changes to Circuits 940, 941, 906, and 40; and use of the conservation easement route rather than the certificated zig-zag route.

Site 20, which was identified in the reopened portion of the record, is vacant land, located in the Town of Henrietta in Monroe County, approximately 4,000 feet east of certificated Site 7. Currently zoned industrial and residential, it is bounded by the Genesee River on the west, the NYPA cross-state 345 kV transmission facility on the north, East River Road on the east. The northern part of Site 20 is owned by 4545 East River Road, LLC, and the southern part of the site is owned by Jaynes Riverview, LLC.²⁹ Part of a wetland, designated as by DEC as "HR-26" and part of a stream designated as "Class C" by DEC are located on Site 20.³⁰ A portion of the site is farmland and was actively farmed, apparently as recently as June 2015.³¹ Site 20's topography is variable and will require significant grading to provide a level development site.³²

The new 345/115 kV air-insulated Station 255 will be situated so that it avoids the Class C stream and is approximately 209 feet from the southern edge of the existing NYPA 345 kV right-of-way and the 24-inch Empire Pipeline. The

²⁹ Tr. 1190-1192, Hearing Exhibits 71 and 88.

³⁰ Tr. 484, 650-651, 698, 832, 1192-1193, and Hearing Exhibits 71 and 88.

³¹ See AJP Appendix B, at 1, and Hearing Exhibit 96, Photo No. 9.

³² AJP Appendix B, pp. 1-2.

new station's footprint is approximately 10 acres and is outside of any mapped floodplain areas.³³

Circuits 940 and 941

The new 115 kV Circuits 940 and 941 will no longer follow the certificated "zig-zag" route. Instead, they will extend from new Station 255, west along the northern edge of the NYPA right-of-way, across the USDA conservation easement, to the Railroad. Upon reaching the Railroad, the circuits will cross the rail line, and then, using the right-of-way that will have been vacated by relocation of Circuit 906 (discussed, *infra.*), Circuits 940 and 941 will follow the Railroad right-of-way heading northeast to the southern terminus of the RARP Segment II. Of the length of Circuits 940 and 941 that will run from Station 255 to the southern terminus of the RARP Segment II, approximately 0.1 miles of these circuits are in the Town of Henrietta and approximately 3.1 miles of these circuits are in the Town of Chili.³⁴ Several of the structures for these circuits will be changed from steel monopoles to steel Y-frames from the west bank of the Genesee River to the conservation easement to allow the span lengths of Circuits 940 and 941 to approximate the span lengths of the existing NYPA transmission lines.

³³ Id.

³⁴ See AJP Appendix B at 2; Hearing Exhibits 110 and 111, and Order Granting Amendments to Article VII Certificate and Approving Environmental Management and Construction Plan for Segment II (issued July 21, 2015), at 3. The southern terminus for the RARP EM&CP Segment II is located at Structure 940-39/941-39 which is north of the point at which the Certified Route entered the Railroad right-of-way (AJP Appendix B, footnote 1).

Circuit 40

As before, the new 345 kV Circuit 40 will connect new Station 255 to existing Station 80. Circuit 40's alignment from East River Road to Station 80 has not changed from that depicted in RG&E's Original Application, and it will extend east for approximately 1.2 miles along the southern edge of the existing NYPA right-of-way and the 24-inch Empire Pipeline. However, due to the relocation of Station 255 to the east side of the Genesee River, Circuit 40 will be shorter. It will no longer cross the Genesee River and will be located entirely within the Town of Henrietta.

Circuit 906

A portion of existing 115 kV Circuit 906 will be relocated to the eastern edge of the Railroad in order to make room in the existing Railroad right-of-way for Circuits 940 and 941. Structures will be within the Railroad right-of-way, but vegetation clearance easements will be required. Approximately 1.2 miles of Circuit 906 will be rebuilt up to the southern terminus of the RARP Segment II. With the exception of its length, the proposal regarding Circuit 906 has not changed from the description that was set forth in RG&E's original application.

Other AJP Terms

The AJP addresses factors that are relevant in the reopener phase of this proceeding, which are identified as including, *inter alia*, cost, environmental impact, including the impact on active farming operations, availability and impact of alternatives, undergrounding considerations, state laws and local laws, and the public interest, convenience and necessity. The AJP states that the modifications addressed in the AJP will not impact the electric system or the Project's conformance to long-range plans for the NYS electric system, and that, as a

result, the Commission's previously made findings on this issue remain applicable.

With respect to cost, the AJP recounts that there will be an increase in the cost of the Project due to additional costs associated with changing the location of Station 255 and the routing of the associated circuits, but it notes that the tax burden of siting the plant at Site 20 are considerably lower than they would have been at Site 7.

The environmental impacts will not be eliminated, but are expected to be minimized. The impacts to actively farmed agricultural lands west of the Genesee River will be significantly reduced. The use of the conservation easement will be mitigated pursuant to the NRCS plan. Finally, the required clearing of wetlands at Site 20 will be mitigated by virtue of the planned replanting of 17 acres of wetland that were previously clear cut by DEC as a result of the Emerald Ash Borer infestation. Replanting will occur on wooded areas of the Krenzer farm, located along the western bank of the Genesee River, and there will be a five-year monitoring period to confirm establishment of new seedlings.

Any noise impacts are expected to be unchanged. The AJP notes that the Certificate Order did not call for undergrounding of this segment of the RARP and states that no such change has been requested with respect to the facilities impacted by this proposal.

With respect to state and local laws, the AJP proposes that the Commission refuse to apply the prohibition of Chapter 295 of Henrietta's ordinances to the extent that it would prohibit utility uses or structures in an I District or an R-1-15 district because, as applied to the Project, such local legal provision is unreasonably restrictive in view of the existing technology and the needs of consumers.

The AJP indicates that RG&E will need to submit an application amendment to the United States Army Corps of Engineers to reflect the Project changes that are proposed in the AJP, but the previously issued Water Quality Certification is not affected by the AJP's proposed changes.

The AJP highlights the public outreach that was conducted by RG&E regarding the changes reflected in the AJP. It notes that testimony in support of changing the location of Station 255 to Site 20 was filed by the Supervisors of the Towns of Chili and Henrietta (Towns), adding that no parties other than the Towns and the AJP's signatories filed testimony during this last phase of this proceeding, after Site 7 and Site 20 were the only remaining locations being considered as potential Station 255 sites.

The AJP lists the proposed findings and certificate conditions that its signatories believe should be made at this stage of the proceeding. The AJP's signatories express their agreement that the previously approved Specifications for Development of EM&CP and the EM&CP Best Practices Manual are acceptable and appropriate, adding that they should be applied to the facilities addressed in the AJP.

Parties' Statements

As noted above, RG&E, Staff, Ag & Markets, DEC, the Krenzlers and the Town of Henrietta filed statements in support of the AJP and they urge the adoption of its terms.

RG&E highlights the fact that the AJP further reduces the agricultural impacts of the RARP, which it notes is in keeping with the recent PSL amendment that it characterizes as placing "special emphasis on avoiding impacts to active farming operations." RG&E observes that the Town of Henrietta will welcome the siting of Station 255 in Henrietta, and Chili now opposes siting Station 255 in the Town of Chili, adding that

taxes on Station 255 in Henrietta will be lower. RG&E notes that while the Krenzlers oppose the siting of Station 255 on Site 7, the owners of Site 20 have indicated either acceptance or, in any event, have expressed no opposition to siting the station on Site 20.

RG&E states while slower than expected load growth and the need to construct facilities to deal with the potential closing of the Ginna Nuclear Plant has resulted in additional time to put the RARP into service, an EM&CP still must be prepared for this segment of the Project. It adds that if this proceeding were further litigated and the Commission's original decision were allowed to stand, a demand for court review, with the delay inherent in court proceedings, might follow, thus further postponing the in-service date of the RARP.

Staff states the AJP was arrived at fairly in full compliance with all Commission rules and guidelines. It notes that all parties had an opportunity to participate. Staff asserts that the AJP represents a reasonable compromise of the parties' diverse positions. Staff argues that the AJP is in the public interest because the Project route minimizes adverse environmental impacts by avoiding sensitive areas; the Project will ensure continued reliability and delivery of power in a timely manner; the AJP embodies the agreement of normally adversarial parties to a reasonable result; and the AJP carefully balances the interests of ratepayers by considering Project cost, among other factors, in proposing the changes to the Project as previously authorized.

Staff says that the previous findings on need, undergrounding, and conformance to and consistency with long-range electric system plans do not require revisiting and that the previously authorized EM&CP Guidelines and water quality certification need not be altered. Staff asserts that the

Commission can make the findings required to determine that, on balance, the Project's environmental, agricultural and visual impacts as described in the AJP, warrant the adoption of its terms.

DEC states that, as a statutory party, it advises the Commission on matters arising under the Environmental Conservation Law (ECL), Navigation Law and applicable Federal statutes, and the rules, regulations, and policies implementing these statutes. DEC adds that it also provides its expertise in the area of environmental impact assessment, including whether a proposed project has appropriately avoided environmental impacts and adequately minimized and mitigated unavoidable impacts.

DEC notes that the relocation of Station 255 from Site 7 to 20 will result in permanent impacts to DEC and federal wetlands, along with 3.2 acres in temporary impacts, but adds that the mitigation of such impacts has been accomplished by terms that are included in the AJP. It concludes that the application, JP, and AJP, considered together, fairly represent the nature of probable environmental impacts and require RG&E to avoid and minimize those impacts and provide mitigation for unavoidable impacts consistent with the PSL's statutory directives. DEC asserts that the record, as augmented by the JP and AJP, supports the finding that the RARP will comply with State law, in particular the ECL and its implementing rules, regulations, policy and guidance. It opines that the modifications proposed in the AJP will serve the public interest, convenience and necessity.

The Krenzlers highlight the significant reduction in the impacts that the RARP will have on their family farm and farming operations. They are very hopeful as to the anticipated reduction in the loss of production land that will result from the station relocation, rerouting of lines through the

conservation easement, and using Y structures. They note that the use of Y structures means there can be longer spans between the poles and the placement of such poles can be aligned to match the placement of such poles to the existing NYPA towers. They express their gratitude for the opportunity to be heard and to protect and preserve their land.

Echoing the benefits attributable to the proposed station relocation, rerouting of lines through the conservation easement, and use of Y structures, the Town of Henrietta concludes that the AJP is the "most reasonable and practical solution" for the RARP.

SUMMARY OF PUBLIC STATEMENTS AND COMMENTS

The public comments that were received during the reopened portion of this proceeding fall into two distinct categories - those filed before the AJP (but after the Reopening Order) and those filed after the AJP.

Comments Filed Prior to the AJP

Two public statement hearings were held on May 15, 2014 at Chili Town Hall to provide the public an opportunity to comment in person on the record on the siting and routing options before the Commission at that time, including potential substation Sites 7, 9, and 20 and associated transmission line routes. To ensure that members of the public were informed that Sites 9 and 20, as well as Site 7, were under consideration, at the judge's direction the Applicant provided maps and information concerning these sites and the imminent public statement hearings by e-mail, mail, website, and newspaper publication. Approximately 150 members of the public attended the two hearings and 34 made statements.

While many speakers acknowledged the need for the Project, there were widely diverse views of its location, with

some asserting the value of protecting agricultural land and others the importance of protecting residences from visual, financial, and environmental impacts. The Town of Chili Supervisor criticized the then-remaining three sites as imposing unacceptable risks to agriculture, housing, and the environment.

Many spoke as owners or residents or on behalf of the Rivers Run Senior Community Project, located east of the Genesee River, in the Town of Henrietta, north of Sites 9 and 20. They opposed the certification of Sites 9 or 20, as did the Town of Henrietta Director of Engineering and Planning. These speakers noted the close proximity of proposed Site 9, in particular, to this large residential community. They raised concerns about potential health impacts of electromagnetic radiation resulting from the proximity of the transmission line, which at that time had been proposed to run north from Sites 9 or 20, closer to Rivers Run. Several speakers noted that many Rivers Run residents rely on electronic medical devices that could be affected by the transmission lines. Other speakers joined in their concerns about electromagnetic field impacts.

In addition, Rivers Run residents raised concerns about the construction disruption and noise and permanent visual impacts on that community and its waterfront. Speakers also asserted that their newly built residences would lose a great deal of resale value, since the Project would be clearly visible from many Rivers Run houses. Landowners of other properties both west and east of the Genesee River protested that the impacts on those neighborhoods should not be presumed to be less than the agricultural impacts of Site 7; owners and devotees of a local horse farm and a potential organic farm and wildlife sanctuary spoke to the loss of valuable pasture lands that would be caused by Sites 9 or 20 or the associated northern routing of Circuits 940 and 941 from either of those sites. Other

landowners asserted that expanding an existing right-of-way would be preferable to breaking new ground in an area currently not impacted by transmission, and that the environmental impact on wetlands should be given serious consideration. A representative of the present owner of Site 9 and a portion of Site 20 asserted that the use of either site for the Project would prejudice the development of office space anticipated to bring jobs to the area.

Members of the Krenzer family stressed the importance of renewing the USDA easement request/application and argued that one resource of the community -- farming -- should not have to bear the sole brunt of the Project; the president of the New York State Farm Bureau also stressed the critical importance of maintaining active farmland in the State.

The Department also received additional written public comments submitted by U.S. Senator Charles Schumer; N.Y.S. Assemblyman Harry Bronson; the New York Farm Bureau; the homeowners association, individual homeowners, and residents of the Rivers Run community; residents of Mile Wood Road, located on the west bank of the Genesee River, bordering portions of the Krenzer farm; and others. More than half of the comments that were filed during this timeframe expressed opposition to the northern routing of the transmission lines from Site 9 or 20, a routing proposal that, as noted above, was eliminated from further consideration shortly after the evidentiary hearings.³⁵ The remaining comments expressed concerns or opinions regarding the siting of a substation at Site 7 or Site 20 and the associated transmission line routing from those sites.

³⁵ As noted above, Site 9 also was eliminated from consideration. See Ruling Regarding Alternative Site 9 and Proposed Northern Routing from Alternative Site 20 (issued June 25, 2014).

Senator Schumer expressed support for the Project overall, while stressing his support of an alternative siting plan that would mitigate and reduce the impacts to the agricultural lands at the Krenzer farm by measures such as transmission pole and access road placement, seeking permission to cross the federal conservation easement, and endeavoring to modify the footprint of the substation. Assemblyman Bronson acknowledged the need for the Project but expressed concerns about the impact certain aspects of the Project could have on agricultural land use and prime agricultural land in the Town of Chili and the extent to such aspects purportedly conflicted with the Town's 2030 Comprehensive Plan. Expressing concerns about the potential that landowners would face serious negative restrictions if the certificated site and route were developed as planned, the Assemblyman encouraged the Commission to accord the same consideration to Site 20 with the conservation easement route that it had accorded to the certificated project and to employ a balanced approach that minimizes impacts on farming operations. The New York Farm Bureau advanced arguments concerning the importance and history of agricultural lands and the statutory and policy considerations concerning the same -- arguments that are substantially similar to arguments advanced by the Krenzlers and by Ag & Markets in this phase of the proceeding.

The Rivers Run Home Owners Association, individual homeowners, and residents expressed concerns that constructing a station at Site 20 would be "nearly 3 times" more costly than at Site 7, thus negatively impacting them as electric customers. They, along with many of the Mile Wood Road residents, asserted that Site 7 is more practical as it is better aligned with the existing NYPA power lines. The Rivers Run commenters also took issue with the notice they received, saying it was not sent

until April 3, 2014, and then was sent to only 10 of the 43 residents in the Rivers Run community.

Mile Wood Road residents asserted that expanding the use of an existing ROW is preferable and using Site 7 has a minimal impact to the region, the homeowners, wildlife and soil/riverbank erosion. Several reasoned that Site 7 is the more economical and expedient option, and asserted that Site 20's closer proximity to residences will have negative impacts. Another opined that the amount of farmland and number of individuals that would be impacted using Site 7 is small and should not be given more importance than the Project's overall benefits to the community at large.

One commenter suggested locating the substation in the wooded area immediately to the east of the tilled field at Site 7, saying that the trees in that area already are affected by the Emerald Ash Borer blight and will be dead soon anyway. The commenter added that such placement would still permit utilization of an existing ROW and asserted that any wetland impacts could be mitigated and overcome with reasonable care in design and construction. Finally, one individual asserted that the Genesee River has flooded twice in the last 79 years, so building transmission towers next to the river would be "unwise" and should be avoided.

Comment Filed After the AJP

The New York Farm Bureau submitted additional comments following the filing of the AJP. The New York Farm Bureau notes that the AJP represents a significant reduction of the project's impacts on agricultural lands -- a precious and valuable natural resource. The New York Farm Bureau notes that moving the station from Site 7 to 20, utilizing Y-frame transmission line structures on the Krenzer family's working family farm, and re-routing of the new transmission lines through an existing

conservation easement, will result in less disruption to farm's operations and a shorter overall length of each of the new circuits that will cross the Krenzer farm. For these reasons, the New York Farm Bureau supports the AJP.

No other comments were filed.

DISCUSSION

The Commission may grant a certificate for the construction or operation of a major utility transmission facility only after making the findings and determinations required by PSL §126(1). Here, these findings and determinations have already been made in the Certificate Order, an order that was neither modified nor stayed. Thus, in this order, our decision is limited to deciding whether to amend the existing Certificate, consistent with the scope and limits that were articulated in the Reopening Order. Given the limited scope and purpose of this phase of this proceeding, it is not necessary for us to revisit our determinations as to need or the facility's conformance to a long-range plan.

Also, as required by our Settlement Guidelines, we will determine whether adopting the terms of the AJP are in the public interest by assessing the AJP's consistency with law and with the regulatory, economic, social, and environmental policies of the Commission and the State and by determining whether the AJP's results compare favorably with the likely result of full litigation, are within the range of reasonable outcomes and strike a fair balance among the interests of ratepayers and investors and the long-term soundness of the utility, and whether there is a rational basis for deciding to

adopt the AJP's terms.³⁶ We will be guided in this assessment by the completeness of the record and whether the AJP is contested.³⁷

The record supporting the AJP clearly meets, if not exceeds, the requirements set forth in our Settlement Guidelines. The record has been significantly augmented since the Remand and Rehearing Orders were issued. It now contains additional testimony, exhibits, briefs, a voluminous and an extensive set of studies concerning Site 20's engineering and environmental impacts, additional public statement hearing transcripts and over 100 written public comments. The evidentiary hearing held in June 2014 resulted in a transcript that exceeds 1,150 pages and includes extensive and vigorous cross-examination by then-adverse parties. Over 50 new exhibits were introduced at this hearing and more have been added to the record since the submission of the AJP.³⁸ The additional record development that has occurred in the last three plus years is very likely unprecedented, but it has proven beneficial and has led us to a point where we can conclude that the record is complete and fully supports our decision to adopt the terms of the AJP.

At the outset of this phase of the proceeding the parties were clearly and definitively divided as to the appropriate site for Station 255, with RG&E, Staff, DEC, and some members of the local community arguing that the certificated site (Site 7) should be reaffirmed and the

³⁶ Cases 90-M-0255 et al. - Procedures for Settlement and Stipulation Agreements, Opinion No. 92-2 (issued March 24, 1992), Appendix B (Settlement Guidelines), pp. 7-9.

³⁷ Id.

³⁸ By Ruling Admitting Evidence (issued August 24, 2016), the testimony, affidavits, and exhibits listed in AJP Appendix A were admitted as evidence into the record in this proceeding.

Krenzlers, Ag & Markets, the Towns, and other members of the local community advocating the relocation of Station 255. Perhaps the only common ground, at that point in time, was the apparently universal support for using the conservation easement as the preferred route for Circuits 940 and 941.

After several years of litigation and several months of collaborative meetings, discussions, and drafting and exchanging documents, the signatory parties have agreed to jointly recommend that the Certificate be amended to authorize the siting and construction of Station 255 on Site 20. This agreement, reflected in the AJP, has the unanimous support of its once-divided signatories and the unqualified support of both of the Towns in which this segment of the RARP will be constructed. In addition, the owners of Site 20, one a party and the other a non-party, have indicated assent to or acceptance of Site 20 as the location for Station 255. And, the only response to our notice seeking public comments on the AJP was favorable. No opposition has been expressed to the terms of the AJP or to its proposals to locate the station at Site 20 and use the conservation easement route for Circuits 940 and 941.³⁹

The negotiations leading up to the formulation of the AJP followed procedural and technical conferences, and began with the issuance of a notice as required by our rules. The negotiations were open to all interested parties. While no party requested an evidentiary hearing on the terms of this AJP, its key provision - Station 255's siting - was tested and examined during the evidentiary hearing that was held in June 2014. In addition, public comments concerning the AJP were

³⁹ Given the substantial further process and record development undertaken to re-evaluate the siting of Station 255 and Circuits 940 and 941 and the fact that the Krenzlers and the Town of Chili support the AJP, we regard their petitions for rehearing as fully and satisfactorily resolved herein.

solicited pursuant to our notice. Procedurally, therefore, we find that the AJP was arrived at through an appropriately transparent process, consistent with our rules and Settlement Guidelines, has rational bases, and is properly before us for decision.

In determining whether adoption of the AJP's terms would be consistent with the public interest, we give weight to the fact that the proposal reflects the agreement of "normally adversarial parties."⁴⁰ The fact that the resulting proposal satisfactorily resolves the signatory parties' competing interests suggests that the terms of the AJP are reasonable and fall within the range of outcomes that could have been expected from a litigated decision. Indeed, terms of this proposal - - for example, the commitments made by RG&E and the Krenzlers to meet to discuss exact pole locations prior to the filing of the EM&CP and the Krenzlers' agreement to allow RG&E to use a part of their land to satisfy DEC-required wetlands mitigation - - truly exemplify reasonable outcomes that also are noteworthy because they suggest that an improved working relationship now has developed between once adverse parties. Such commitments moreover are evidence of positive and beneficial outcomes that likely would not have been as successfully achieved as a result of continued litigation. Accordingly, we are satisfied that the proponents have met their burden with respect to demonstrating that the terms of the AJP strike a reasonable balance between the interests of the customers and RG&E.

The Reopening Order indicates that our decision at this stage would focus on "whether the environmental and agriculture impacts of alternatives and the assessment of statutory factors other than need warranted a change to the

⁴⁰ Settlement Guidelines, p. 8.

certificated site or the routing for the RARP." Accordingly, we will address the now-applicable provisions of the Public Service Law (i.e., PSL §126 (1)(b), (c), (d), (g) and (h))⁴¹ which require that we find and determine the following:

- (b) the nature of the probable environmental impact;
- (c) that the facility represents the minimum adverse environmental impact ...;
- (d) that the facility represents a minimum adverse impact on active farming operations that produce crops livestock and livestock products ... considering the state of available technology and the nature and economics of various alternatives and the ownership and easement rights of the impacted property;⁴²
- (g) that the location of the facility as proposed conforms to applicable state and local laws and regulations ..., [except those local laws the commission may refuse to apply]; and
- (h) that the facility will serve the public interest, convenience, and necessity.

The AJP, along with the record as more fully developed during the reopened portion of this proceeding, provide a full account of the expected environmental impacts of Site 20 and demonstrate that the impacts to active farming will be significantly reduced and that other negative environmental impacts will be minimized or adequately mitigated.

As noted above, Site 20 is vacant land, located in the Town of Henrietta. Though Site 20 contains agricultural land, the soils at Site 20 are classified as soils that are not well drained, while the soils at Site 7 are well-drained and are

⁴¹ PSL §126(1)(f) applies to gas transmission lines and therefore is not applicable. PSL §126(1)(e) requires a finding with respect to undergrounding. Here, no one proposed or requested it. Additionally, Staff asserts that requiring undergrounding would increase adverse environmental and farming impacts as well as unnecessarily increase the RARP costs. Staff Statement in Support of Amendment to Joint Proposal, p. 8.

⁴² PSL §126 was amended by Chapter 521 of 2015, which became law on December 11, 2015.

classified as prime farmland. The substation footprint -- approximately 10 acres - - would be the same at either site. However, the overall agricultural/farming operation impacts will be greatly reduced by using Site 20 and the conservation easement routing. These changes greatly reduce the acres of farmland directly impacted. In addition, impacts will be otherwise adequately mitigated, as noted above and as more fully described in the AJP and evidence cited in AJP Appendix C. For example, the AJP provides that Y structures will be used instead of monopoles in actively farmed areas and they will be placed such that they match the span of the existing NYPA towers; this will ameliorate negative impacts to farming operations.

Part of wetland HR-26 and part of a Class C stream are located on Site 20. There would have been no permanent wetland impacts at Site 7, but 3.79 acres would have been temporarily impacted. Siting the station at Site 20 will permanently impact 1.1 acres of DEC and federal wetlands, and will temporarily impact 3.2 acres. These impacts, however, will be adequately mitigated. In addition, Station 255 will be situated so that it avoids the stream, and its footprint is outside of any mapped floodplain areas.

The station will be situated approximately 209 feet from the southern edge of the existing NYPA 345 kV right-of-way and the 24-inch Empire Pipeline. There is good access to Site 20 from Riverview Road to the east, with a pre-existing road entering the property from Riverview Road.

There are no known scenic or protected views in proximity to Site 20. Few people would have views of the station at Site 20 but the station would be somewhat visible to some of the residences on Mile Wood Road located to the north and west of the site, on the west side of the Genesee River,

after the trees have shed their leaves.⁴³ From Site 20, there is a distance of 496 feet between the station and the closest residence; from Site 7, there is a distance of 1,584 feet between the station and the closest residence.⁴⁴ The visual impacts will be greater at Site 20 than at Site 7, but noise impacts are not expected to change.

The choice of Site 20 means that Circuits 940 and 941 will be longer (overall), while Circuit 40 would be shorter, due to Site 20's location further to the east along the NYPA right-of-way. From Site 20, Circuits 940 and 941, rather than Circuit 40, would cross the Genesee River. The cost of siting and constructing the station at and circuits from Site 20 is expected to be more than at Site 7 and construction will take longer, but the use of Site 20 as the station location and the resulting routing changes of the circuits have the unanimous support of once opposed and divided parties. These parties, though now able to support the same outcome, still have divergent interests that have nonetheless been met and reconciled by the proposals contained in the AJP. Moreover, even though building Station 255 at Site 20 instead of Site 7 is expected to take several additional months, due to the implementation of the GRTA, this delay can be accommodated and is expected to present little risk to system reliability.

Due to a another new circumstance -- specifically, the NRCS's approval of RG&E's request to modify the federal conservation easement -- the conservation easement route is now an available alternative route for Circuits 940 and 941. As noted above, the Commission ordered RG&E to pursue the easement alternative, and we are gratified that RG&E's efforts to do so

⁴³ Tr. 1193-1194.

⁴⁴ Tr. 310.

have resulted in success. The conservation easement route, long preferred by all parties, is a significant improvement to the Project as originally certificated. Permission to traverse the easement property enables Circuits 940 and 941 to follow the NYPA right-of-way for its entire length between Station 255 and the Railroad, furthering our policy to use or follow existing rights-of-way to minimize disruption of the landscape. Significantly, use of this route removes the circuits entirely from the parcel of farmland owned by David Krenzer, previously traversed by the "zig-zag" of the certificated route. This change thus results in a substantial mitigation of impacts upon agricultural land in general and upon the Krenzer farming operation in particular.

The foregoing discussion summarizes the nature of the probable environmental impacts of the Project as amended by the terms of the AJP. Based on this discussion and on the entire record of this proceeding, including, in particular, the evidence listed and cited in Appendices A and C of the AJP, we find and determine that the probable environmental impacts of the Project amendments as described in the AJP are expected to be minimal (mostly limited to temporary, construction-related disturbance and inconvenience) and the impacts to agriculture (particularly to active farming operations) represent a minimum adverse impact on active farming operations considering the state of available technology and the nature and economics of various alternatives and the ownership and easement rights of the impacted property.

We further find that the location of the facility as proposed in the AJP conforms to applicable state and local laws and regulations, except to the extent that Chapter 295 of the Town of Henrietta prohibits utility uses or structures in a

districts zoned as industrial or residential (I or R-1-15).⁴⁵ Therefore, consistent our statutory authority, we refuse to apply this prohibition to this Project because it is unreasonably restrictive in view of existing technology and the needs of consumers.

Based on all of the above, and on the record as a whole, we find that the proposed amendments, as more fully described in the AJP and its appendices, will serve the public interest, convenience and necessity.

In short, locating Station 255 at Site 20, using the conservation easement route for Circuits 940 and 941, and approving the other related routing changes will further minimize the RARP's agricultural impacts while still permitting the Project to be completed in time to avoid unduly risking the reliable operation of RG&E's electric system.⁴⁶ On balance, after weighing all of the relevant factors, we find that the additional positive environmental and public interest benefits that would be provided if the Certificate were amended warrant adoption of the relevant terms of the Amendment to Joint Proposal.

With respect to the general provisions set forth in AJP §II, we note that ¶¶ 1, 2, 3, 5, 6, and 8 are, for the most part, routine terms governing the parties' relationships. Therefore, with the exception of provision II.4 (relating to

⁴⁵ We, in large part, base this finding on the justifications set forth in Hearing Exhibit 91 (Site 20 Study, Assessment of Local Laws (see, e.g., pp. 11-12)).

⁴⁶ Due to the concerns regarding the need to maintain a schedule that could ensure the timely implementation of the RARP, engineering, design, and other work has continued on the uncontested segments of this Project.

dispute resolution) we do not adopt them.⁴⁷ We also note that AJP §II.7, which states that AJP Appendix A lists the exhibits, testimony and affidavits the signatories request be admitted as additional record evidence in this proceeding, does not require our action or our approval.⁴⁸

CONCLUSION

Based on the evidentiary record as a whole, and on the AJP and parties' statements in support, we find the terms and conditions of the AJP acceptable. We find that the Project, as amended by the terms of the AJP, 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 including but not limited to the effect on agricultural lands, wetlands, parklands, and river corridors traversed; and represents the minimum adverse impact on active farming operations considering the state of available technology and the nature and economics of various alternatives and the ownership and easement rights of the impacted property; conforms to applicable state laws and regulations issued thereunder and to the substantive provisions of the applicable local laws and regulations, with the one exception noted above, which we refuse to apply because, as

⁴⁷ AJP §II.4 provides that, in the event of any disagreement over the interpretation or implementation of the AJP that cannot be resolved informally among the signatories, such disagreement shall be resolved by (1) the signatories convening a conference and, in good faith, attempting attempt to resolve any such disagreement, with the assistance of a mediator if they so request and, if step (1) proves unsuccessful, then any signatory may move that the Commission resolve the disputed matter.

⁴⁸ The exhibits, testimony and affidavits listed in Appendix A of the AJP already have been admitted as additional record evidence in this proceeding (see note 38, supra).

applied to the Project as amended, it is unreasonably restrictive in view of the existing technology, factors of cost, and the needs of consumers; and will serve the public interest, convenience, and necessity.

The Commission orders:

1. With the exceptions discussed above, the terms of the June 17, 2016, Amendment to Joint Proposal, attached to this order, including the revisions to Certificate Conditions set forth in Appendix D, are adopted and incorporated into and made a part of this order.

2. The Petitions for Rehearing filed by the Krenzlers and by the Town of Chili, consistent with the discussion in this order, are resolved.

3. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

NEW YORK STATE
PUBLIC SERVICE COMMISSION

Case 11-T-0534 – Application of Rochester Gas and Electric Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the "Rochester Area Reliability Project," Approximately 23.6 Miles of 115 Kilovolt Transmission Lines and 1.9 Miles of 345 Kilovolt Line in the City of Rochester and the Towns of Chili, Gates and Henrietta in Monroe County.

AMENDMENT TO JOINT PROPOSAL

By:

Rochester Gas and Electric Corporation

Staff of the New York State Department of Public Service

New York State Department of Environmental Conservation

New York State Department of Agriculture and Markets

Anna Krenzer, Marie Krenzer and David Krenzer

Albany, New York

Dated: June 17 , 2016

CASE 11-T-0534 – Amendment to Joint Proposal

Table of Contents

I. Introduction.....1

II. General Provisions..... 8

III. Description of Project Location..... 10

IV. Environmental Compatibility and Public Need.....12

A. The Electric System and Long Range Plans.....12

B. Cost.....12

C. Environmental Impact14

D. The Availability of Alternatives and Undergrounding.....18

E. State and Local Laws.....19

F. United States Army Corps of Engineers.....20

G. Public Interest, Convenience and Necessity.....21

V. Proposed Findings.....21

VI. Proposed CertificateConditions.....22

VII. Environmental Management and Construction Plan Specifications.....22

Appendix A – List of Testimony and Exhibits to be Admitted

Appendix B – Description and Location of Project, with Maps of Proposed Location of Station 255 and its Associated Transmission Lines at Site 20 (Figures 23 and 24), Proposed Locations of Transmission Line Structures on Krenzer Farm Between Genesee River and Dailey Conservation Easement (Exhibit 110, Sheets 1, 2 and 3), and Proposed Location of Circuits 940 and 941 from the East Side of the Dailey

Conservation Easement to Structures 39 on the Right-of-Way of the Rochester and Southern Railroad (Exhibit 111)

Appendix C – Proposed Commission Findings

Appendix D – Proposed Ordering Clauses/Certificate Conditions

Appendix E – Replanting Plan for 17 Acres of DEC Wetland CI 32

STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

Case 11-T-0534 – Application of Rochester Gas and Electric Corporation for a Certificate of Environmental Compatibility and Public Need for the Construction of the "Rochester Area Reliability Project," Approximately 23.6 Miles of 115 Kilovolt Transmission Lines and 1.9 Miles of 345 Kilovolt Line in the City of Rochester and the Towns of Chili, Gates and Henrietta in Monroe County.

AMENDMENT TO JOINT PROPOSAL

This Amendment to Joint Proposal is made as of the 17th day of June, 2016 by and among Rochester Gas and Electric Corporation ("RG&E"), 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 ("DEC"), the New York State Department of Agriculture and Markets ("Ag & Markets"), and Anna Krenzer (individually and as representative of the Estate of Thomas Krenzer), Marie Krenzer, and David Krenzer ("Krenzlers"). All such parties are collectively referred to as the "Signatory Parties".

I. INTRODUCTION

By its *Order Adopting the Terms of a Joint Proposal and Granting a Certificate of Environmental Compatibility and Public Need with Conditions*, issued

April 23, 2013 (“Certificate Order”), the New York State Public Service Commission (“Commission”) granted RG&E a certificate of environmental compatibility and public need (“Certificate”) pursuant to Article VII of the New York Public Service Law (“PSL”) authorizing construction, operation and maintenance of the Rochester Area Reliability Project (“RARP” or “the Project”) a new 9.6-mile 115 kV transmission line (Circuit 940), a new 11.1-mile 115 kV transmission line (Circuit 941), the reconstruction of 2.0 miles of an existing 115 kV transmission line (Circuit 906), a new 1.8-mile 345 kV transmission line (Circuit 40), a new 345 kV/115 kV substation (Station 255), and improvements to three existing substations (Stations 23, 80, and 418), in the towns of Chili, Gates, and Henrietta and the City of Rochester in Monroe County, New York (the “Project”).

On May 22, 2013, the Krenzlers sought rehearing of the Commission’s order granting the Certificate. On August 15, 2013, the Commission granted the Krenzlers’ request for party status and remanded the proceeding to an administrative law judge to facilitate settlement discussions among the parties, including the Krenzlers, regarding the agricultural impacts of siting Station 255 at the certified location on the Krenzer property designated as Site 7 and the siting of Circuits 940 and 941 on the Krenzer property. The Town of Chili and the Town of Henrietta, which had not previously been parties to the proceeding, were

eventually granted party status, and those municipalities have supported the Krenzlers' request for rehearing.

On November 15, 2013, the Commission reopened the record of this proceeding and directed that:

“RG&E should re-examine the alternatives for the siting of Substation 255 proposed in its original application between Station 80, on the east, and the Rochester & Southern Rail line, on the west (including any sites east of the Genesee River that were not mentioned in the original application); RG&E should also examine the additional sites for the location of Substation 255 advanced by the Krenzlers in their petition for rehearing or otherwise discussed during the negotiations on remand. The record must also assess the impact of any changes to the routes of Circuits 40, 940, and 941 that would be necessary to accommodate the substation location alternatives.”
Order Reopening the record for the Re-Examination of Location of Substation 255 and the Route of Circuits 40, 940 & 941, p. 12

The Commission's November 15, 2013 order also directed RG&E to pursue permission from the United States Department of Agriculture Natural Resources Conservation Service (“NRCS”) to have Circuits 940 and 941 of the RARP cross a 40.8 acre conservation easement on the property of J. Ormand Dailey (the “Conservation Easement”) rather than follow the certified route through the farm fields of David and Marie Krenzer. The Commission directed that while RG&E was taking these actions it should continue with its work in compliance with the Certificate Order and proceed to file its Environmental Management and Construction Plan in compliance with the Certificate Order.

RG&E prepared and filed with the Commission its *Report on Alternatives Analysis for Substation 255 and Associated Transmission Lines*, a study of 25 potential sites for the RARP. Public Statement hearings were held in the afternoon and evening of May 15, 2014 in the Chili Town Hall. Through proceedings before Administrative Law Judge Eleanor Stein, the number of potential sites for Station 255 was reduced to three. Evidentiary hearings were held on June 17, 18 and 19, 2014 before Administrative Law Judges Elizabeth Liebschutz and Michelle Phillips, and the alternatives sites for Station 255 were reduced to the certified Site 7, on the property of Thomas Krenzer in the Town of Chili, and Site 20, in the Town of Henrietta. The alternative transmission routes for Circuits 940 and 941 in the vicinity of Station 255 were reduced to a route to cross the Genesee River from Site 20, three variations of the certified route, and the Conservation Easement Route. The only change proposed for Circuit 40 was the shortening of that circuit, which is to run from Station 255 east to RG&E's Station 80 in the Town of Henrietta, if Station 255 were to be located at Site 20.

After rejecting RG&E's initial application with leave to file a revised application, on September 26, 2014, NRCS granted RG&E's renewed request for permission to have the Circuits 940 and 941 follow the Conservation Easement Route, subject to the addition of 34.4 acres of land to the Conservation Easement

and agreement upon enhancements to all areas to be encumbered with the Conservation Easement. The owner of the underlying fee interest in the property, J. Ormand Dailey, has sold RG&E an option to acquire the necessary transmission line easement across the Conservation Easement.

On December 23, 2014, RG&E notified the administrative law judges and the parties to the RARP proceeding that various developments in a case considering closure of the Ginna nuclear power plant would result in a modification of the schedule for constructing the RARP. RG&E advised that with the implementation of a project referred to as the Ginna Retirement Transmission Alternative the immediate construction of Station 255 would not be necessary, and RG&E instead intended to complete the RARP in three phases, with the first phase being completed in 2019.

On February 4, 2015, Administrative Law Judges Elizabeth Liebschutz and Michelle Phillips issued a ruling asking the parties to comment on the implication of RG&E's modified RARP schedule in view of developments in the case considering the closure of the Ginna nuclear power plant, *Petition for Initiation of Proceeding to Examine Proposal for Continued Operation of R.E. Ginna Nuclear Power Plant (Case 14-E-0270)* that would allow delay in the construction of Station 255. Accordingly, on April 24, 2015, the administrative law judges issued a

ruling directing RG&E to conduct a further study of the feasibility of siting Station 255 at Site 20, and allowing all parties to file testimony concerning the study. The study, the *Station 255 – Site 20 Engineering and Impact Analysis Report* (“Site 20 Study”), was filed with the Commission on September 25, 2015. Additions and corrections were subsequently filed, and the parties conducted discovery related to the study. RG&E, DPS Staff, Ag & Markets, the Krenzlers and the Supervisors of the Towns of Chili and Henrietta filed testimony, and hearings were scheduled to commence on December 15, 2015.

In addition to the notice originally given for the hearing on the Site 20 Study, at the direction of Administrative Law Judge Michelle Phillips notice of the hearing was given by first class mail to all persons from whom property rights might be needed if the Certificate Order was modified to authorize the use of Site 20, rather than Site 7, for Station 255 or the Conservation Easement route for Circuits 940 and 941, rather than the previously-authorized route.

Thomas Krenzer died four days before the hearings scheduled for December 15, 2015. As a result, hearings were adjourned to February 2, 2016. On January 29, 2016, DPS Staff sent a motion to Judge Phillips and all persons on the Commission’s Party List for the proceeding requesting that the evidentiary hearing be postponed to allow the parties to engage in exploratory discussions on

February 2, 2016, rather than begin hearings on that day. The hearings were postponed.

Following exploratory discussions that focused on Site 20, on February 3, 2016, RG&E served on all persons on the Commission's Party List a Notice of Impending Negotiations. The parties to this Joint Proposal all agreed to engage in negotiations subject to the Commission's rules on settlement negotiations. No other party participated in the negotiations.

Based on the foregoing, and after thorough discussion of the issues, the Signatory Parties recognize that the parties' various positions can be addressed through settlement, and propose to the Commission that the Certificate Order, as previously amended, be further amended as set forth in this Amendment to Joint Proposal and its appendices so that the location of Station 255 will be moved from Site 7 in the Town of Chili to Site 20 in the Town of Henrietta and the route of Circuits 940 and 941 will pass through the Conservation Easement on the property of J. Ormand Dailey rather than follow the "zig zag" route across the land of David and Marie Krenzer.

TERMS OF AMENDMENT TO JOINT PROPOSAL

II. General Provisions

1. It is understood that each provision of this Amendment to Joint Proposal is in consideration and support of all the other provisions set forth in this Amendment to Joint Proposal and is expressly conditioned upon approval of all terms of this Amendment to Joint Proposal by the Commission. If the Commission fails to adopt the terms, the Signatory Parties shall be free to accept the Commission's terms or to pursue individually their respective positions in this proceeding without prejudice.

2. The Signatory Parties agree to submit this Amendment to Joint Proposal to the Commission, along with a request that the Commission adopt the terms and provisions as set forth herein. The Signatory Parties agree that construction, reconstruction, operation and maintenance of the Project in compliance with the Certificate Conditions included in the Commission's April 23, 2013 Certificate Order and this Amendment to Joint Proposal, including the Proposed Certificate Conditions set forth in Appendix D attached hereto, will comply with PSL Article VII and with the substantive provisions of applicable state law referenced in the Proposed Commission Findings set forth in Appendix C attached hereto.

3. The Signatory Parties recognize that certain provisions of this Amendment to Joint Proposal contemplate actions to be taken in the future to effectuate fully this Joint Proposal. Accordingly, the Signatory Parties agree to cooperate with each other in good faith in taking such actions.

4. In the event of any disagreement over the interpretation of this Amendment to Joint Proposal or implementation of any of its provisions, which cannot be resolved informally among the Signatory Parties, such disagreement shall be resolved in the following manner:

- a. the Signatory Parties shall promptly convene a conference and in good faith attempt to resolve any such disagreement, with the assistance of a mediator if the Signatory Parties ask for such assistance; and
- b. if any such disagreement cannot be resolved by the Signatory Parties, any Signatory Party may move that the Commission resolve the disputed matter.

5. This Amendment to Joint Proposal shall not constitute a waiver by RG&E of any rights it may otherwise have to apply for additional or modified permits, approvals or certificates from the Commission or any other agency in accordance with relevant provisions of law. RG&E agrees to provide notice to the Krenzlers at

the time it applies for any such permit, approval or certificate if the application involves, effects, or will impact the Krenzer properties.

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

7. Appendix A to this Amendment to Joint Proposal lists the exhibits, testimony and affidavits to be admitted as additional record evidence in this proceeding.

III. Description of Project Location

8. The Signatory Parties agree that the Description and Location of Facility which is Appendix B to this Amendment to Joint Proposal accurately describes the location and configuration of the Project between East River Road in the Town of Henrietta and Structure 39 of Circuits 940 and 941 on the right-of-way of the Rochester and Southern Railroad in the Town of Chili. The maps included in Appendix B show the location of Station 255 and the associated transmission lines at Site 20 in the Town of Henrietta, the location of all transmission line structures to be constructed or relocated in the Town of Chili between the Genesee River and the Conservation Easement, and the route of Circuits 940 and 941 from the eastern side of the Conservation Easement to Structures 39 of Circuits 940 and

941 on the Rochester and Southern Railroad right-of-way. This Amendment to Joint Proposal is limited to Project facilities within those limits, and except as specifically provided in this Amendment to Joint Proposal, including its appendices, the Signatory Parties do not in this Amendment to Joint Proposal propose any change to Commission orders concerning the Project. The locations of the structures of Circuits 940 and 941 on the Krenzer properties between the Genesee River and the Conservation Easement (“the Krenzer Properties”) shown on Exhibit 110, Sheet 1, included in Appendix B, Description and Location of Project, are based on preliminary engineering and consultation with the Krenzlers. A goal of this Amendment to Joint Proposal is to have the transmission structures on the Krenzer Properties align with crop rows and with the towers of the northern NYPA transmission line on the Krenzer Properties to the extent reasonably possible, except where otherwise shown on the Appendix B map, to minimize the impact of Circuits 940 and 941 on farming. Prior to the filing of Segment III of the Environmental Management and Construction Plan, which will include Circuits 940 and 941 on the Krenzer Properties, RG&E will stake the proposed location of transmission structures on the Krenzer Properties and will consult further with the Krenzlers on the whether the structures will be aligned with the crop rows.

IV. Environmental Compatibility and Public Need

9. The Commission must consider the totality of all of the relevant factors in making its determination of environmental compatibility and public need. The relevant factors include, without limitation, the electric system, conformance to long-range plans, cost, environmental impact, including agricultural impact and impact on farm operations, availability and impact of alternatives, undergrounding considerations, state laws and local laws, and the public interest, convenience and necessity.

A. Electric System and Long Range Plans

10. The changes to the Certificate Order addressed in this Amendment to Joint Proposal will not have any impact on RG&E's electric system and will not impact the conformance of the Project to long-range plans for the state's transmission system. The findings the Commission previously made on these issues remain applicable and no changes are required.

B. Cost

11. Siting Station 255 at Site 20 will increase the cost of the Project by an estimate of approximately \$12.130 million. This increased cost consists of

additional substation costs for site preparation, wetland mitigation, allowance for funds used during construction, administrative overhead, and contingencies, and additional transmission line costs including engineering, equipment, materials, tax, utility labor, contractor labor, engineering, administrative overhead, contingencies and allowance for funds used during construction, all as described more specifically in RG&E's Site 20 Study and other exhibits. Station 255 will need to be re-engineered for location at Site 20, which has different geological and hydrological conditions from those of the certified site. Circuits 940 and 941 across the Krenzer property and to Structure 39 on the Rochester and Southern Railroad will need to be re-engineered, since they will be on structures different from those previously certified by the Commission and the spans between structures will be much longer than the spans between the previously certified structures.

12. RG&E has submitted testimony and affidavits that use of the Conservation Easement Route will add over \$6 million to the cost of the Project as a result of the .3 miles added length of the Conservation Easement Route as compared to the certified route and the resultant need to move Circuit 906 to the east side of the Rochester and Southern Railroad sooner than would be required with the currently certified route. It will also add the costs associated with the NRCS

enhancement requirements for use of the Conservation Easement route, including, among other things, the need to purchase the right to impose a conservation easement on an additional 34.4 acres adjacent to the property through which the Conservation Route passes and to perform extensive work on that property and on the land on which the Conservation Easement is located.

13. RG&E also points out that the cost of preparing the *Report on Alternatives Analysis for Substation 255 and Associated Transmission Lines* and the Site 20 Study, as ordered by the Commission or the Administrative Law Judges, and presenting those studies to the Commission, has increased the cost of the Project, but through those studies and the related proceedings, the Signatory Parties were able to arrive at a resolution that they all could agree upon.

14. Although a calculation of the real property taxes that will be imposed on Station 255 cannot be determined accurately until that substation is constructed and assessed, construction of Station 255 at Site 20 should result in lower property taxes on that facility since property taxes per dollar of assessed value in the Town of Henrietta are considerably lower than property taxes in the Town of Chili. This benefit should continue annually as long as the spread in real property taxes continues.

C. Environmental Impact

15. Moving Station 255 from the certified site to Site 20 will eliminate the adverse agricultural impact that would have resulted from locating Station 255 at the certified Site 7 on the Krenzer farm. The use of Y-frame transmission towers aligned with the lattice towers of the NYPA 345 kV lines, with long spans between the Y-frames, will reduce, but not eliminate, the impact of Circuits 940 and 941 on the Krenzer farm. Farming will be allowed between the transmission line structures, but the structures will take some land out of agricultural production. Locating Station 255 at Site 20 will impact about 6 acres of land that was previously used for agriculture but has not recently been farmed, and eliminate from agricultural use about 3.8 acres of land at Site 20 that has recently been farmed by the Krenzlers under lease from the owner of that land. There has been testimony that if the land is not used for Station 255, it might be used for a residential development, but a representative of the owner of the land, Jaynes Riverview, LLC, has stated in a letter to RG&E that the owner does not object to the siting of Station 255 at Site 20.

16. Siting Station 255 at Site 20 will result in 3.2 acres of temporary impacts and 1.1 acres of permanent impacts to DEC and federal wetlands in the vicinity of Site 20. Segment III of the EM&CP for the RARP, which will include all Project facilities between Station 80 and Structure 39 on the Rochester and Southern Railroad

right-of-way, will involve clearing a total of approximately 6.9 acres of forested wetland and 1.2 acres of permanent impact to wetlands, inclusive of the impact of siting Station 255 at Site 20 (but exclusive of any wetland impacts to the Conservation Easement, which impacts will be mitigated under the NRCS's conservation plan). RG&E, with the permission of the Krenzer family, will mitigate the wetland impacts associated with the RARP between Station 80 and Structure 39 (other than the Conservation Easement impacts) by replanting 17 acres of DEC wetland CI 32, on the Thomas Krenzer property in accordance with the Replanting Plan for 17 Acres of Wetland CI 32 attached as Appendix E. Approximately 19.8 acres of this wetland and the adjacent upland forested area were clear-cut by DEC as a result of Emerald Ash Borer infestation.

17. Siting Station 255 at Site 20 as proposed will avoid an adjacent DEC Class C stream at Site 20.

18. With Station 255 at Site 7, Circuits 940 and 941 would have run west of Station 255, and the NYPA 345 kV circuits and RG&E Circuit 40 would have crossed the Genesee River in one corridor. With Station 255 located at Site 20, Circuits 940 and 941 will cross the Genesee River as they run west. Because Station 255 at Site 20 will be oriented to avoid impacting the Class C stream, Circuits 940 and 941 running west from Site 20 will cross the Genesee River in a

different corridor from where the NYPA 345 kV circuits will cross the river. With Station 255 at Site 20, Circuit 40, which must run east of Station 255 to Station 80, will not have to cross the Genesee River.

19. Changing the route of Circuits 940 and 941 from the certified route to the Conservation Easement route will decrease the impact of those lines on the farmland of David and Marie Krenzer by eliminating .79 miles of each of those lines from their agricultural fields west of Scottsville Road. Those circuits will run adjacent to two 345 kV lines of the New York Power Authority (“NYPA”) through the Conservation Easement and thus widen an existing transmission corridor through the Conservation Easement. The additional acreage to be made subject to a conservation easement and the other extensive enhancements required by NRCS as a condition of allowing use of the Conservation Easement Route will mitigate any environmental impact the use of the Conservation Easement Route may have.

20. Changing the structures for Circuits 940 and 941 from steel monopoles to steel Y-frames from the west bank of the Genesee River to the Conservation Easement (with the exception of (i) the area in the vicinity of Scottsville Road where steel monopoles will be used to avoid adversely affecting an existing barn, and (ii) where land elevations prevent the use of longer spans), will allow those

circuits to have span lengths approximately the same as the spans of the NYPA lines. On Y-frames, the circuits will be more visible than they would have been on the originally certified monopoles, since there will be two poles per circuit, but those poles generally will not be taller than the originally certified steel monopoles would have been. No additional road crossings are required by the changes proposed herein.

21. Since Station 255 at Site 20 will have the same equipment it would have had at the certified site, noise from Station 255 should not vary significantly from what it would have been at Site 7. There are no particularly noise sensitive land uses in the immediate vicinity of where Station 255 is proposed to be located at Site 20.

22. The voltage of the transmission lines that would be impacted by the Amendment to Joint Proposal will be the same as the voltage of the lines certified in the Certificate Order.

D. Availability of Alternatives and Undergrounding

23. The Signatory Parties examined many alternative locations for the facilities covered by this Joint Proposal. Those alternatives are discussed in the *Report on Alternatives Analysis for Substation 255 and Associated Transmission Lines*, the Site 20 Study, and related testimony and exhibits. Although RG&E, DPS Staff, DEC

and Ag & Markets originally agreed in a joint proposal that the location of the facilities as originally certified by the Commission was proper, those parties and the Krenzlers now agree that the Certificate Order should be modified to provide for construction of the involved RARP facilities as provided in this Amendment to Joint Proposal.

24. The Certificate Order does not provide for undergrounding of any RARP transmission facilities between East River Road and Structure 39, and there has been no claim that the cost of undergrounding the modified transmission facilities in this area is warranted.

E. State and Local Laws

25. The RARP, modified as proposed herein, will comply with the substantive provisions of each applicable state statute and regulation. The ordinances of the Town of Chili were addressed in the Certificate Order to the extent relevant herein. Waivers of certain ordinances of the Town of Henrietta, as they pertain to transmission facilities and to the addition of a fifth bay at RG&E's Station 80 in the Town of Henrietta were addressed by the Commission in the Certificate Order and in its *Order Granting Amendments to Article VII Certificate and Approving Environmental Management and Construction Plans*, issued July 21, 2015. The ordinances of the Town of Henrietta that would pertain to the siting of Station 255

at Site 20 are addressed in Appendix A to the Site 20 Study, which identifies every substantive Henrietta ordinance potentially applicable to the siting of Station 255 at Site 20. RG&E stated in Appendix A to the Site 20 Study that if the Commission selects Site 20 as the location of Station 255, RG&E would request that the Commission refuse to apply the prohibition of Chapter 295 of Henrietta's ordinances to the extent that it would prohibit utility uses or structures in an I District or an R-1-15 district because, as applied to the Project, such local legal provision is unreasonably restrictive in view of the existing technology and the needs of consumers. Except for that provision, RG&E will comply with, and the location of the Station 255 and the related transmission lines conform to, all substantive local legal provisions that are applicable to the Project. Due to the supplanting effect of PSL Section 130, procedural requirements to obtain any approval, consent, permit, certificate or other condition for the construction or operation of the Project do not apply.

F. United States Army Corps of Engineers

26. RG&E was authorized by the United States Army Corps of Engineers ("USACE"), under the Nationwide Permit Program, to construct the Certified Project. RG&E will submit an application amendment to the USACE to reflect the

change in Project. The Signatory Parties agree to support RG&E in its efforts to obtain USACE approval of the revised Project.

27. The Water Quality Certification previously issued in Case 11-T-0534 is not affected by the changes discussed herein.

G. Public Interest, Convenience and Necessity

28. RG&E conducted public outreach regarding the proceedings leading to the Amendment to Joint Proposal, including letters to local officials in areas affected by the Project, letters to property owners in the vicinity of Site 20 and the sections of Circuits 940 and 941 that would be impacted by the changes requested in the Joint Proposal and filing of RG&E's studies of alternative sites in local libraries. Testimony in support of changing the location of Station 255 to Site 20 was filed by the Supervisors of the Towns of Chili and Henrietta. No parties other than the two towns and the Signatory Parties filed testimony in the phase of the proceeding in which only Site 7 and Site 20 were considered as potential locations for Station 255.

V. Proposed Findings

29. The Signatory Parties agree that the record in this proceeding supports the Commission findings required by PSL Section 126(1) and set forth in Appendix C.

VI. Proposed Certificate Conditions

30. The Signatory Parties agree that provided the certified route and the certified facilities are understood to mean the route and facilities certified by the Commission's Certificate Order as amended to date and as further amended by the Commission order adopting the terms of this Amendment to Joint Proposal, the Certificate Conditions contained in the Certificate Order continue to be appropriate for the facilities impacted by this Amendment to Joint Proposal except as set forth in Appendix D attached hereto.

VII. Environmental Management & Construction Plan Specifications

31. The Signatory Parties agree that the Specifications for Development of EM&CP included in the Certificate Order and the EM&CP Best Practices Manual approved in the Certificate Order are acceptable and appropriate for application to the facilities addressed in this Amendment to Joint Proposal.

Respectfully submitted,

Rochester Gas and Electric Corporation

A handwritten signature in cursive script, appearing to read "John D. Draghi".

By: John D. Draghi, Esq.
860 United Nations Plaza 18B
New York, NY 10017

Staff of the New York State Department of Public Service

A handwritten signature in black ink, appearing to read "Steven Blow".

By: Steven Blow, Esq.
Three Empire State Plaza
Albany, NY 12223-1350

New York State Department of Environmental Conservation

A handwritten signature in black ink, appearing to read 'T. Berkman', with a long horizontal flourish extending to the right.

By: Thomas S. Berkman, Esq.

625 Broadway

Albany, NY 12223-1500

New York State Department of Agriculture and Markets

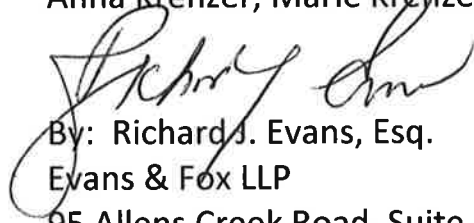
A handwritten signature in black ink, appearing to read "Diane Smith". The signature is fluid and cursive, with the first name "Diane" and the last name "Smith" clearly distinguishable.

By: Diane Smith, Esq.

10-B Airline Drive

Albany, NY 12235

Anna Krenzer, Marie Krenzer and David Krenzer

A handwritten signature in black ink, appearing to read "Richard J. Evans". The signature is written in a cursive style with a large initial "R".

6/17/2016
10:30 AM

By: Richard J. Evans, Esq.

Evans & Fox LLP

95 Allens Creek Road, Suite 300

Rochester, NY 14618

Case 11-T-0534

Rochester Area Reliability Project

Amendment to Joint Proposal

APPENDIX A

LIST OF EXHIBITS AND TESTIMONY TO BE ADMITTED

INTO EVIDENCE

Exhibits after the June 2014 hearings:

- 86 Chili D. Dunning 1/19/16 resubmittal of letter to DPS Secretary (332)¹
- 87 RG&E Witness Qualifications (327)
- 88 RG&E Site 20 Report Pg 1 – 22 (327)
- 89 RG&E Site 20 Report Pg 23 – 47 (327)
- 90 RG&E Site 20 Report Pg 48 – 71- (327)
- 91 RG&E 3 Appendix A - Local Law Assessment (327)
- 92 RG&E Appendix B – Geotechnical Report (327)
- 93 RG&E Appendix C – Biological Assessment Report (complete) (327)
- 94 RG&E Appendix D – Hydrologic Study (327)
- 95 RG&E Appendix E – Phase 1B Archeological Assessment (complete) (327)
- 96 RG&E Appendix F Bat Habitat Assessment (327)
- 97 RG&E Appendix G Invasive Species Report (327)
- 98 RG&E Appendix H Opinion of Probable Costs (327)
- 99 RG&E Appendix I Wetland Mitigation Feasibility Analysis (327)

¹ Numbers in parentheses following the name of an exhibit or witness are references to the DMM file number for exhibits and testimony that was pre-filed.

- 100 RG&E Site20&Site7 DEC Wetlands 112015-Fig1 (339)
- 101 RG&E Site20&Site7 proposedWetlands_112015-Fig2 (339)
- 102 RG&E Site 20 & Site 7_NWI Wetlands_112015-Fig3 (339)
- 103 RG&E Site 20&Site 7 Alt 1_Delineated _112015-Fig4 (339)
- 104 Town of Henrietta – 11/10/15 letter to Secretary of DPS regarding residential development at Site 20 (335)
- 105 Town of Henrietta - 11/10/15 letter to Secretary of DPS regarding real property taxes in Henrietta (335)
- 106 DPS - Responses to DPS-24 through DPS-49 (other than Product Brochure provided in response to DPS-47) (DMM 331)
- 107 DPS - Responses to DPS-50 through DPS-60 (without load flow studies and electrical system map filed with ALJ Phillips with request for confidential treatment)
- 108 Chili – Update to testimony – Approval of Agricultural and Farmland Protection Plan (374)
- 109 Map of Proposed Location of Station 255 and its Associated Transmission Lines at Site 20
- 110 Map of Proposed Type and Location of Transmission Line Structures on Krenzer Farm Between Genesee River and Conservation Easement
- 111 Map showing route of Circuits 940 and 941 from the east edge of the Conservation Easement to Structure 39 on the Rochester and Southern Railroad right-of-way
- 112 Corrections to the Station 255 – Site 20 Engineering and Impact Analysis Report (380)
- 113 The United States Department of Agriculture Natural Resources Conservation Service’s September 24, 2014 approval of a right-of way for

Circuits 940 and 941 through a conservation easement on the property of Ormand J. Dailey, with Notification Letter (DMM Filing No. 282)

- 114 December 12, 2015 letter from K. Marvald, Vice President and General Counsel of Greystone Properties, Inc. to S. Murphy of RG&E advising that the owner of Site 20 is ready to cooperate with RG&E and the PSC in having Station 255 built at Site 20

Testimony pre-filed for adjourned February 2016 hearings

Direct testimony of Sean Murphy, Michael Schaffron, James Baker, Michael VanArsdale, Carol Howland, William Trembath, August Ruggiero, William Wyatt, and Robert Steelher for RG&E (327)

Direct testimony of David Dunning for the Town of Chili (332)

Direct testimony of Jack Moore for the Town of Henrietta ((335)

Direct testimony of Marie Krenzer (334)

Direct testimony of Michael Saviola of Ag & Markets (333)

Direct testimony of Edward Schrom, Richard Quimby, James de Waal Malefyt and Corey Strub of DPS Staff (331)

Rebuttal testimony of Michael Saviola (340)

Rebuttal testimony of Carol Howland (339)

Rebuttal testimony of Sean Murphy (339)

Rebuttal testimony of Sean Murphy and Carol Howland (339)

Affidavits on Amendment to Joint Proposal

Affidavits of Sean Murphy and Carol Howland adopting testimony and exhibits and providing certain additional facts and affidavits of other RG&E witnesses adopting their testimony and exhibits

Affidavits of all witnesses for DPS Staff, Department of Agriculture and Markets
and the Krenzlers adopting testimony and exhibits

Case 11-T-0534

Rochester Area Reliability Project

Amendment to Joint Proposal

APPENDIX B

DESCRIPTION AND LOCATION OF PROJECT

General Description of Facility Location

The following descriptions of the facilities included in the scope of the Amendment to the Joint Proposal are for the portions of the Project generally defined as Segment III, as shown in Figure 1 at the end of this Appendix:

- new 345/115 kV air-insulated Station 255,
- new 345 kV line between Station 255 and Station 80 (circuit 40),
- new 115 kV lines (circuit 940 and circuit 941) from Station 255 to Structure #39¹ located along the Rochester & Southern Railroad right-of-way.

Proposed Station 255

The new Station 255 will have a footprint of approximately 10 acres and will be adjacent and to the south of the existing New York Power Authority (“NYPA”) 345 kV right-of-way in the town of Henrietta. The site is between East River Road on the east and the Genesee River on the west. The new station will be offset approximately 209 feet from the southern edge of the existing NYPA 345 kV right-of-way and the 24-inch Empire Pipeline.

This proposed site is zoned industrial and residential, and a portion of the site is actively farmed. The footprint of Station 255 is outside of any mapped floodplain areas. There are mapped wetlands and an unnamed class C stream on the site. The topography is variable and

¹ Historical Note – Structure #39 is north of the point at which the Certified Route entered the right-of-way of the Rochester & Southern Railroad. It is the terminus of the “Northern Route” that was associated with Sites 9 and 20 in the “Report on Alternatives Analysis for Substation 255 and Associated Transmission Lines,” dated January 16, 2014. Structure #39 was used as the southern point for EM&CP-II, which was submitted during the Alternatives Analysis. The “Northern Route” was eliminated from consideration after EM&CP – Segment II had been submitted and approved.

will require significant grading to provide a level development site. Refer to Figures 23 and 24 (Exhibit 109).

Circuit 906 Partial Rebuild

Existing 115 kV circuit 906 is located on a centerline easement that parallels the western edge of the Rochester & Southern Railroad between the NYPA 345 kV right-of-way and the point at which circuit 906 turns east. The existing right-of-way for circuit 906 and the west side of the Rochester & Southern Railroad right-of-way are wide enough to accommodate proposed circuits 940 and 941. Accordingly, a portion of circuit 906 will be relocated to the eastern edge of the Rochester & Southern rail line corridor to vacate the existing right-of-way for circuits 940 and 941. Structures will be within the railroad right-of-way, but vegetation clearance easements will be required. Approximately 1.2 miles of circuit 906 will be rebuilt up to Structure #39 in the town of Chili. Refer to Figures 2.3c and 2.3d (Exhibit 111).

Proposed 115 kV Circuit 940

Circuit 940 will extend from new Station 255 to Structure #39, west along the northern edge of the NYPA right-of-way, across a federal conservation easement, to the Rochester & Southern rail line.

Upon reaching the Rochester & Southern rail line, circuit 940 will cross the rail line and turn in a northeasterly direction to proceed within and along the western edge of the rail line to Structure #39. Within this portion, circuit 940 will use the right-of-way vacated by circuit 906.

Of the length of circuit 940 from Station 255 to Structure #39, approximately 0.1 miles are in the town of Henrietta and approximately 3.1 miles are in the town of Chili. Refer to Figures 2.3c and 2.3d (Exhibit 111), and Exhibit 110.

Proposed 115 kV Circuit 941

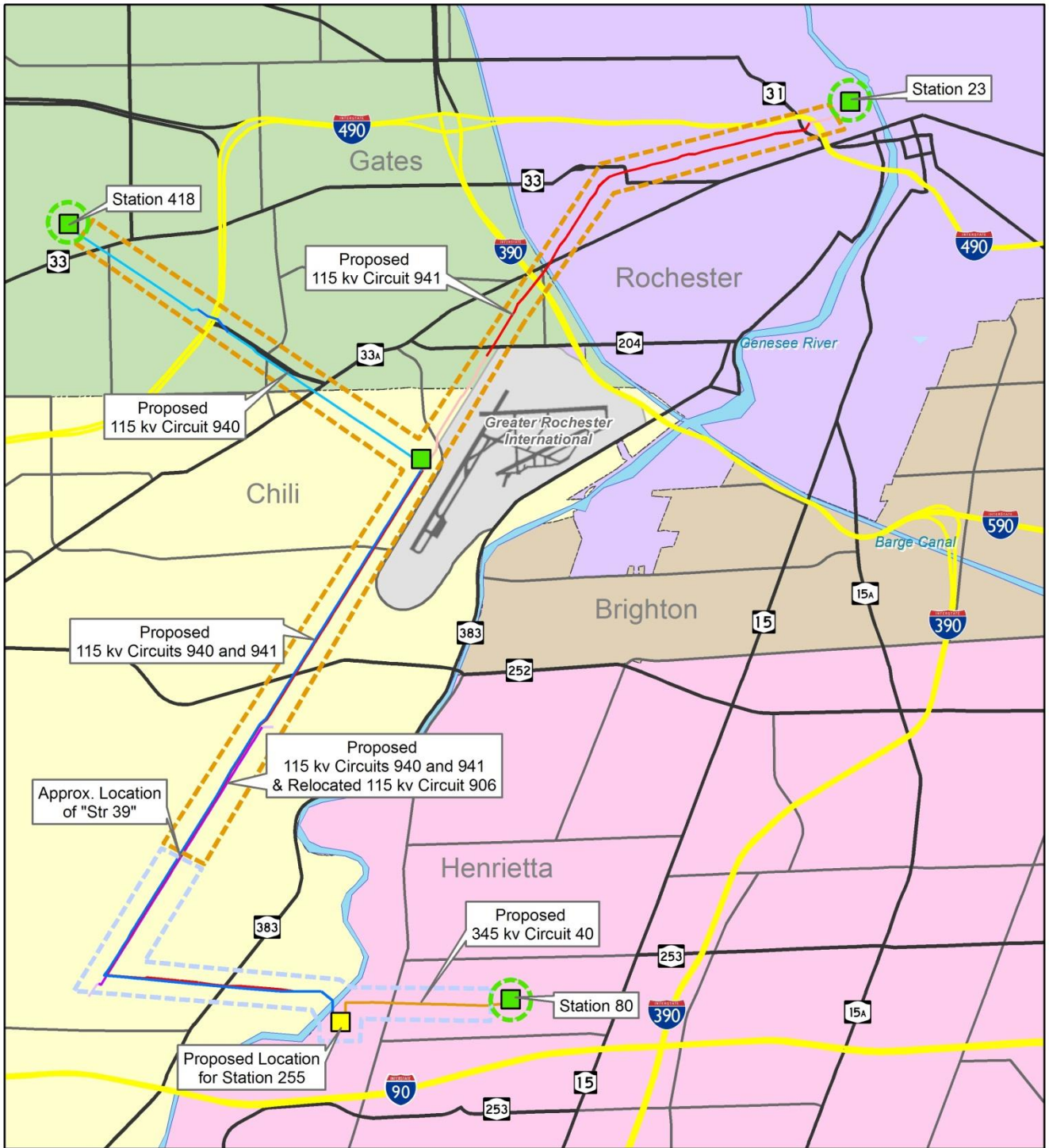
Circuit 941 will extend from new Station 255 to Structure #39, west along the northern edge of the NYPA right-of-way, across a federal conservation easement, to the Rochester & Southern rail line.

Upon reaching the Rochester & Southern rail line, circuit 941 will cross the rail line and turn in a northeasterly direction to proceed within and along the western edge of the rail line to Structure #39. Within this portion, circuit 941 structures will use the right-of-way vacated by circuit 906.

Of the length of circuit 941 from Station 255 to Structure #39, approximately 0.1 miles are in the town of Henrietta and approximately 3.1 miles are in the town of Chili. Refer to Figures 2.3c and 2.3d (Exhibit 111), and Exhibit 110.

Proposed 345 kV Circuit 40

The new 345 kV circuit 40 will connect new Station 255 to existing Station 80. Circuit 40 will extend east for approximately 1.2 miles along the southern edge of the existing NYPA right-of-way and the 24-inch Empire Pipeline. All facilities described in this subsection are located within the town of Henrietta. Circuit 40 as it leaves Station 255 is depicted in Exhibit 109. The alignment of circuit 40 from East River Road to Station 80 has not changed from, and is as previously depicted in, RG&E's Application.



Legend

- New Circuit 940 (Overhead - 115 kV)
- New Circuit 940 (Underground - 115 kV)
- New Circuit 941 (Overhead - 115 kV)
- New Circuit 941 (Underground - 115 kV)
- New Circuit 906 (Overhead - 115 kV)
- Existing Circuit 906 to Remain (Overhead)
- New Circuit 40 (Overhead - 345 kV)
- RG&E Substation (Existing)
- Proposed RG&E Substation (New)
- SEGMENT I - Substations
- SEGMENT II - Transmission Lines North of Str 39
- SEGMENT III - Transmission Lines South of Str 39 & Station 255

0 0.5 1 Miles

ROCHESTER AREA RELIABILITY PROJECT

PROJECT LOCATION MAP

FIGURE 1 JUNE 2016

Rochester Area Reliability Project

APPENDIX C to AMENDMENT TO JOINT PROPOSAL

PROPOSED COMMISSION FINDINGS

1. The statutory findings affected by the Amendment to Joint Proposal are those set forth in Section 126(1)(b), (c), (d), (g) and (h)

2. Based on Hearing Exhibits 88-99, RG&E's *Station 255-Site 20 Engineering and Impact Analysis Report* ("Site 20 Study"), which is sponsored by RG&E witnesses Michael Schaffron, James Baker, Michael Van Arsdale, August Ruggiero, William Wyatt, Robert Steelher, William Trembath, Carol Howland and Sean Murphy, and on the testimony of DPS Staff witnesses Edward Schrom, James de Waal Malefyt, Richard Quimby and Corey Strub Station 255 of the Rochester Area Reliability Project ("RARP") can and should be constructed as an air-insulated substation on the east side of the Genesee River west of East River Road in the Town of Henrietta at a location referred to as Site 20, using the configuration described as AIS Alternative B in the Site 20 Study. In such location and configuration Station 255 will serve the same purpose it would have served if constructed at the originally certified Site 7 on the property of Thomas Krenzer, and use of Site 20 will eliminate the impact on farm operations of siting Station 255 at Site 7, but not the transmission line impacts.

3. Based on information in Exhibit 113, supported by the affidavit of Carol Howland, the United States Department of Agriculture Natural Resources Conservation Service has approved the granting of a right-of way for Circuits 940 and 941 through a conservation easement on the property of Ormand J. Dailey subject to Rochester Gas and Electric Corporation providing compensation for the impact of Circuits 940 and 941 on that conservation easement, and use of such right-of-way rather than the certified route through the property of David and Marie Krenzer would reduce the impact on farm operations of the RARP on the property of David and Marie Krenzer by eliminating .79 miles of two transmission

lines from the Krenzer property without significantly adversely impacting the property of any other landowner.

4. Based on the information in Exhibit 110, supported by the affidavit of Sean Murphy, Circuits 940 and 941 across the lands of Thomas Krenzer, Anna Krenzer and David and Marie Krenzer, from the Genesee River to the east side of the conservation easement on the property of Ormand J. Dailey can and should be constructed mainly on steel Y-frame structures with locations approximately aligned with the structures of the New York Power Authority (“NYPA”) 345 kV cross-state transmission lines with span length approximately the same as those of the NYPA lines. Such alignment will minimize impact on farm operations.

5. Based on the testimony of David Dunning, Supervisor of the Town of Chili, the Town of Chili opposes siting Station 255 at Site 7. Based on the testimony of Jack Moore, Supervisor of the Town of Henrietta, the Town of Henrietta assesses real property such as substations at a lower rate than the Town of Chili and Siting Station 255 at Site 20 will thus reduce RG&E’s real property taxes based on the value of Station 255, and the Town of Henrietta favors constructing Station 255 at Site 20.

6. Based on the information in Exhibit 98, as revised, supported by the testimony of Michael Steelher and Sean Murphy, siting Station 255 at Site 20 will increase the cost of that substation by \$12.1 million dollars. Having Circuits 940 and 941 follow a route through the conservation easement on the property of Ormand J. Dailey will increase the cost of those circuits by over \$6 million because the conservation easement route is .3 miles longer than the originally certified route and will require that Circuit 906 be moved to the east side of the Rochester and Southern Railroad much sooner than if those circuits intersected the Rochester and Southern Railroad at the point included in the certified route. The cost of mitigation required by the NRCS for the impact of Circuits 940 and 941 on the conservation easement will also increase the cost of Circuits 940 and 941. These costs are justified because of the extent to which the siting of Station 255 at Site 20 will reduce the impact of the RARP on agriculture without significantly changing other environmental impacts and because Station 255 will be moved

from the Town of Chili, which now opposes the construction of Station 255 at Site 7, to the Town of Henrietta, which supports the construction of Station 255 at Site 20.

7. Based on the information in Exhibit 89 (revised 1/28/16), supported by the affidavit of Carol Howland, siting Station 255 at Site 20 will result in 3.2 acres of temporary impacts and 1.1 acres of permanent impacts on Department of Environmental Conservation (“DEC”) wetlands. Based on the agreement of DEC, all wetland impacts discussed in the Amendment to Joint Proposal, from East River Road in the Town of Henrietta to Structure 39 on the Rochester and Southern Railroad right of way in the Town of Chili, will be mitigated by RG&E replanting, with the consent of the Krenzlers, 17 acres of wetland CI 32 on the property of the Estate of Thomas Krenzer, which acreage was clear-cut because of an Emerald Ash Borer infestation.

8. Based on the information in Exhibit 89 (revised 1/28/16), supported by the affidavit of Sean Murphy, Siting Station 255 at Site 20 will remove from agricultural production 3.9 acres of land that has been farmed under lease by David Krenzer.

9. The record demonstrates that the Commission can determine the nature of the probable environmental impact of the facility, and can also find that the facility 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 including, but not limited to, the effect on agricultural lands, wetlands, parklands and river corridors traversed, and on active farming operations that produce crops, livestock and livestock products, as defined in Section 301 of the Agriculture and Markets Law, considering also the ownership and easement rights of the impacted property owner.

10. Based upon the information provided in Exhibit 91, sponsored by Sean Murphy and Carol Howland, Station 255 at Site 20 will conform to applicable state and local laws and regulations issued thereunder, except to the extent that Chapter 295 of the laws of the Town of Henrietta prohibits utility uses or structures in an I zoning district or an R-1-15 zoning district, which ordinance the

Commission should refuse to apply because it is unreasonably restrictive in view of existing technology, factors of cost, and the needs of consumers,

11. Based on the entire record as listed on Appendix A, and on all prior proceedings herein, the Project, with the changes set forth in the Amendment to Joint Proposal, will serve the public interest, convenience and necessity.

Case 11-T-0534

Rochester Area Reliability Project

Proposed Certificate Conditions

Based on the changes proposed in the Amendment to Joint Proposal dated as of June 15, 2016, the RARP Certificate Conditions listed below should be revised as follows:

The Certificate

1. Subject to the conditions set forth in this Opinion and Order, the Certificate of Environmental Compatibility and Public Need issued to Rochester Gas and Electric Corporation on April 23, 2013 (the "Certificate"), pursuant to Article VII of the New York Public Service Law ("PSL"), authorizing the construction, reconstruction, operation and maintenance of the Rochester Area Reliability Project is amended as provided herein, and hereafter any reference to the Project in the Certificate Conditions for the Project shall be deemed to be references to the Project as changed by this order.

Description of Route

5. The proposed location of the Project as set forth in Appendix B, "Description and Location of Project," to the Joint Proposal dated as of December 6, 2012 is modified to substitute, for the facilities between East River Road in the Town of Henrietta and Structure 39 of Circuits 940 and 941 on the right-of-way of the Rochester and Southern Railroad in the Town of Chili, all in Monroe County, the description in Appendix B to the Amendment to Joint Proposal.

Revisions to Certificate Conditions

Certificate Condition 26 is revised to add the following subsection (d):

(d) Deviations from the certified centerline, the design height and location of structures and proposed structure types for Circuits 940 and 941 on the property of Thomas Krenzer, Anna Krenzer, David Krenzer and Marie Krenzer in the Town of Chili between the Genesee River and Structure 39 on the right-of-way of the Rochester and Southern Railroad, unless agreed to by the property owner, shall not be allowed without the approval of the Commission, which approval shall be granted only for good cause shown.

In Certificate Conditions 31(a), 31(c), 47, and 65(c), the reference to "Director of the Office of Energy Efficiency and the Environment ("OEEE")" is changed to "Chief of the

Environmental Certification and Compliance Section of the Office of Electric, Gas and Water.”

Certificate Condition 58 is modified to read as follows:

“Application of herbicides shall conform to all label instructions and all applicable state and federal laws and regulations. Except as specifically required under the Natural Resource Conservation Service mitigation plan on the Dailey property, herbicides shall not be applied within 5 feet of streams or standing water or within 100 feet of any public water supply (reservoirs and wellheads). Applicators shall reference maps which indicate treatment areas, and wetland and adjacent area boundaries, prior to treating. Applications required in seasonally flooded freshwater wetlands shall be undertaken during a dry season.”

Certificate Condition 82(c) is modified by adding at the conclusion of that condition:

“The plan to mitigate for the clearing of forested wetland habitat and functions and other adverse wetland impacts resulting from permanent structures in wetlands and damage to wetland vegetation from roadways between RG&E’s Station 80 in the Town of Henrietta and Structure 39 on the right-of-way of the Rochester & Southern Railroad in the Town of Chili shall be the plan for replanting DEC wetland CI 32 on the Krenzer property in the Town of Chili in accordance with the terms of the Amendment to Joint Proposal.

Certificate Condition 120 is revised as follows:

120. The minimum distances between the Certificate Holder’s transmission line poles for the Project and NYPA’s adjacent cross-state 345 kV transmission lines shall be as follows:

- a) For Certificate Holder’s 345kV Circuit 40, the distance between the centerline of each Certificate Holder transmission line pole and NYPA’s outer-most conductor shall be a minimum of 10 feet greater than the height of Certificate Holder’s transmission line pole, measured from the bottom of the pole embedded in the earth or in concrete to the top of the structure (i.e. 130-foot transmission line pole requires a minimum distance of 140 feet from the centerline of the Certificate Holder’s transmission line pole to NYPA’s conductor).
- b) For Certificate Holder’s 115kV Circuits 940 and 941, the distance between the centerline of each Certificate Holder transmission line pole and NYPA’s outer-most conductor shall be a minimum of 5 feet greater than the height of the Certificate Holder’s pole measured from the bottom of the pole embedded in the earth or in

concrete to the top of the structure (i.e. 80-foot pole requires a minimum distance of 85 feet from the centerline of the Certificate Holder's pole to the NYPA conductor).

Deletion of Certificate Condition

Certificate Condition 119(b), concerning access to Station 255 at the formerly certified Site 7, is deleted.

New Certificate Condition

The following Certificate Condition 124 is added to the Certificate Conditions:

124. Certificate Conditions 87 – 106, concerning Agricultural Resources, shall not apply to land at or adjacent to that part of Site 20 on which Station 255 will be constructed.

Case 11-T-0534

Rochester Area Reliability Project

Amendment to Joint Proposal

APPENDIX E –Part 1

Plan for Replanting DEC Wetland CI 32

Below are the DEC's wetlands mitigation requirements for CI-32, which, together with the attached map, represent mitigation necessary due to the relocation of substation 255 to Site 20, and the associated transmission line modifications. This does not include mitigation associated with tree clearing in the Conservation Easement area, which will be addressed in enhancements required by the NRCS.

1. The required acreage to be mitigated will be based on a 1.5:1 ratio for the clearing of forested wetlands. It is estimated that, based on this ratio, RG&E will need approximately 14 acres for wetland mitigation, not including any adjacent area mitigation requirements, which appear to be minimal. Thus, the replanting of 17 acres of CI-32 should satisfy all mitigation requirements arising from the relocation. RG&E developed and submitted a mitigation plan for approval by DEC and DPS and will submit the plan to USACE. That plan, approved by DEC and DPS Staff, includes an agreed-upon success rate (typically 90%-95%), and will be included in the EM&CP III.

2. The Krenzlers have agreed that there shall be access across their property from Milewood Road to CI-32 with its approximate location having been agreed upon by the parties as generally depicted on the UBS map which is annexed as the second part of Appendix E. The specific terms, consideration, and conditions related to the access during initial planting and the five (5) year monitoring period will be resolved and agreed upon between the Krenzlers and the RG&E following the adoption of the Amendment to the Joint Proposal by the PSC.

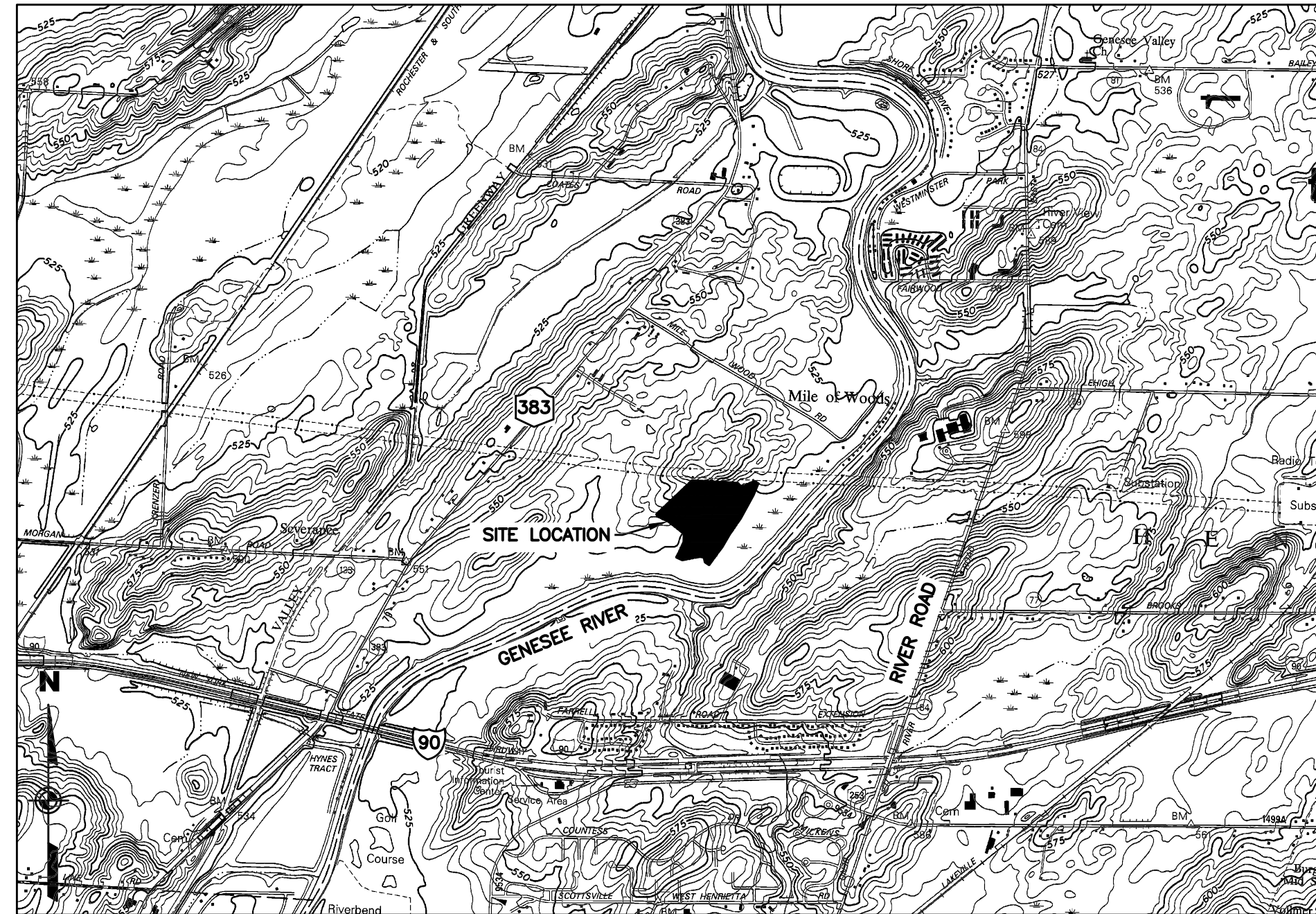
3. Five years of monitoring, with annual reporting to DEC, DPS and the Krenzers, is required.
4. RG&E will replant approximately 300 trees and shrubs per acre in the 17 acres included in the mitigation. The plantings will consist of a variety of shrubs (i.e., chokeberry, dogwood, viburnum, winterberry, hazelnut, elderberry) and a variety of trees (i.e., maples, oaks, willow, birch) to be placed according to the approved plan.
5. Replacement of dead mitigation trees within the 5-year monitoring period is required.
6. An invasive species management plan for the planting area will be included in EM&CP III, and must be implemented during the 5-year monitoring period.
7. Tree protection by biodegradable tree tubes to prevent/reduce deer and rodent damage will be provided by RG&E.

ROCHESTER AREA RELIABILITY PROJECT

PROPOSED WETLAND MITIGATION LANDSCAPE PLAN

REVISED CONCEPT PLAN

03 MAY, 2016



NEW YORK STATE DEPARTMENT OF TRANSPORTATION RASTER QUADRANGLE
"BREWSTER" (1:24,000 SCALE - UTM ZONE 18, NAD83).

SITE LOCATION MAP
NOT TO SCALE

LEGEND

- CONCRETE MONUMENT/BENCH MARK
- MARSH OR SWAMP
- RIVER
- INTERMITTENT STREAM
- RAIL ROAD LINE
- TRANSMISSION LINE-CENTER LINE

SHEET NO.	DRAWING NAME
0000	TITLE SHEET
0001	PROPOSED WETLAND MITIGATION LANDSCAPE KEY PLAN
0002	PROPOSED WETLAND MITIGATION LANDSCAPE PLAN
0003	PROPOSED WETLAND MITIGATION LANDSCAPE PLAN
0004	PROPOSED WETLAND MITIGATION LANDSCAPE PLAN
0005	PROPOSED WETLAND MITIGATION LANDSCAPE SEEDING PLAN
0006	PROPOSED WETLAND MITIGATION LANDSCAPE SEEDING PLAN
0007	LANDSCAPE DETAILS

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____

URS Corporation
New York
257 West Genesee Street, Suite 400
Buffalo, New York 14202
(716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

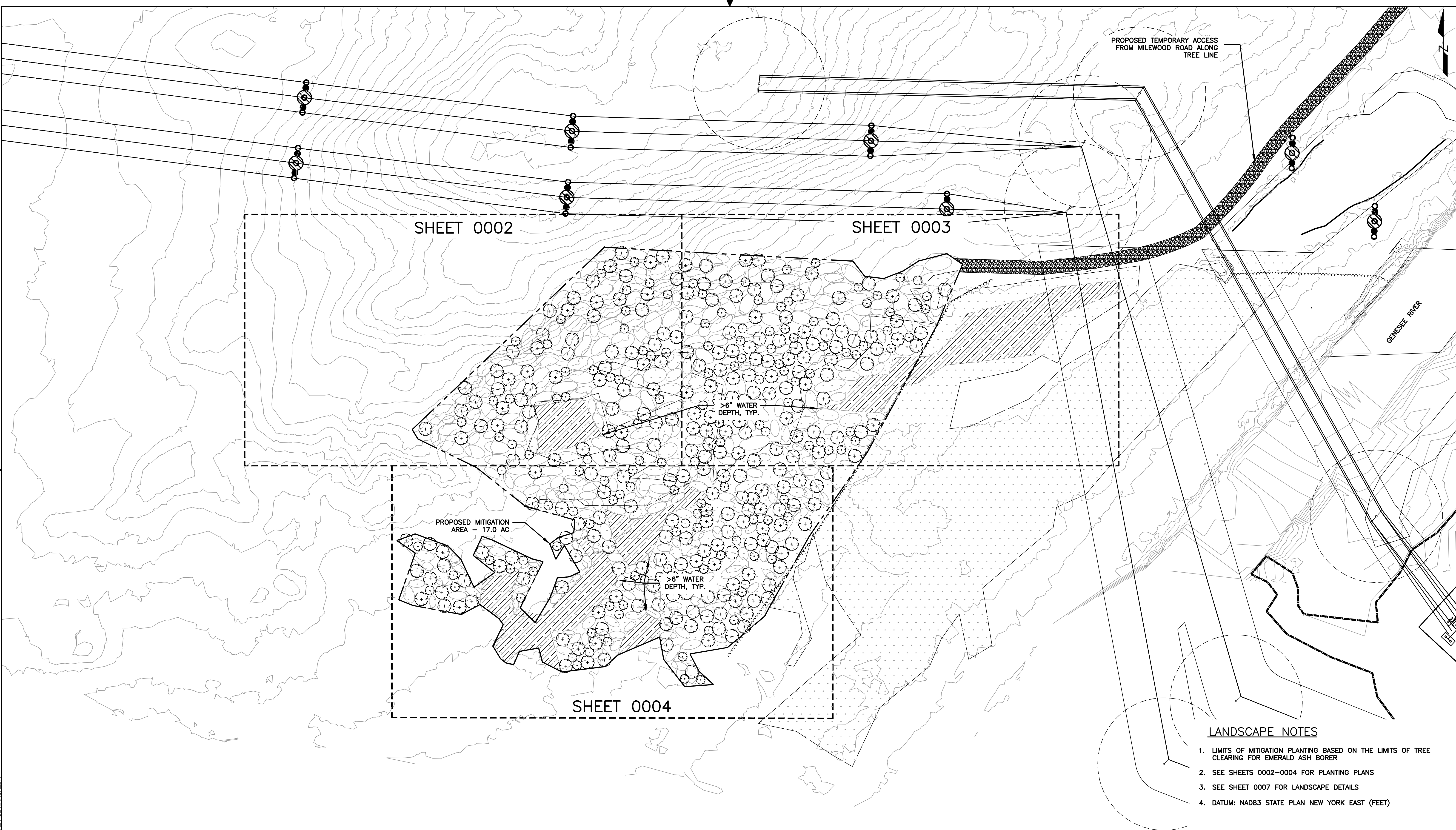
IUSA ENGINEERING
CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
Property of Iberdrola, USA

IBERDROLA - USA

ROCHESTER AREA RELIABILITY PROJECT			
DR.	TH	SCALE:	FILE: XXXX SH XXXX
CK.	CLL	NO.	
APP.			REV.
		4/26/16	

ANSI D CADD Drawing, DO NOT REVISE MANUALLY

ANSI D CADD Drawing, DO NOT REVISE MANUALLY



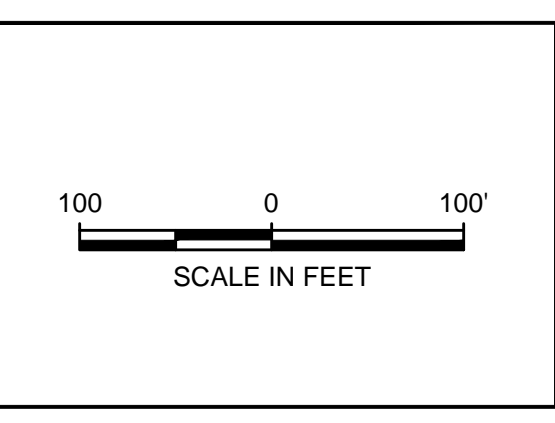
- LANDSCAPE NOTES**
1. LIMITS OF MITIGATION PLANTING BASED ON THE LIMITS OF TREE CLEARING FOR EMERALD ASH BORER
 2. SEE SHEETS 0002-0004 FOR PLANTING PLANS
 3. SEE SHEET 0007 FOR LANDSCAPE DETAILS
 4. DATUM: NAD83 STATE PLAN NEW YORK EAST (FEET)

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____



URS Corporation

New York
 257 West Genesee Street, Suite 400
 Buffalo, New York 14202
 (716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

IUSA ENGINEERING
 CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
 Property of Iberdrola, USA

IBERDROLA - USA

REV.	DATE	BY	DESCRIPTION	APP.

PROPOSED WETLAND MITIGATION
 LANDSCAPE KEY PLAN

ROCHESTER AREA RELIABILITY PROJECT

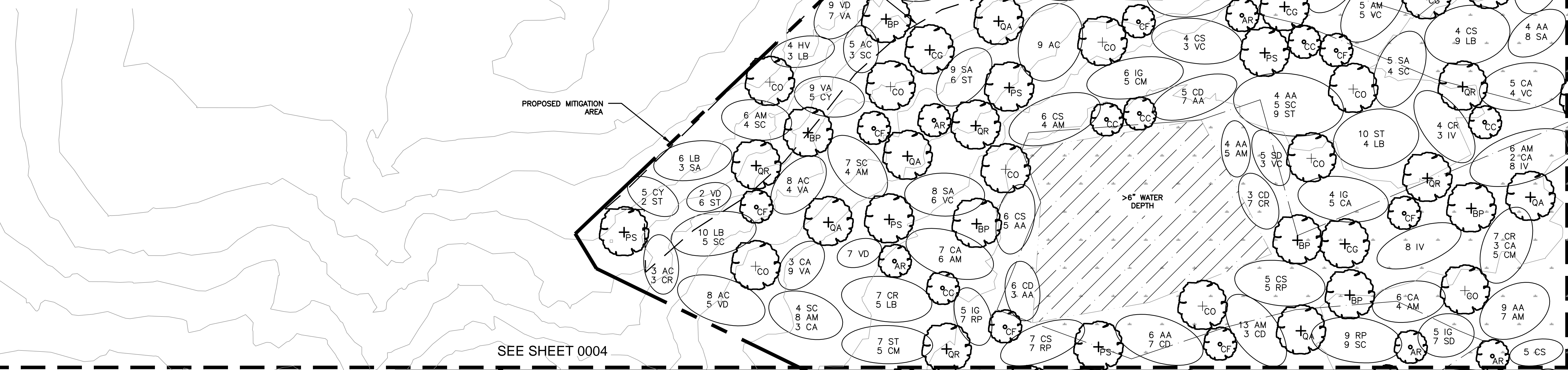
DR. TH SCALE: 1"=100' FILE: XXXXX SH XXXXX
 CK. CLL NO.
 APP. DATE: 4/26/16

0001

RARP PLANT SCHEDULE (0002)						
QTY	SYM	SCIENTIFIC NAME	COMMON NAME	SIZE/ROOT	COND	COMMENTS
Native Trees						
7	AR	Acer rubrum	Red Maple	1.5" CAL.	B&B	
9	BP	Betula papyrifera	Paper Birch	1.5" CAL.	B&B	
9	CC	Carpinus caroliniana	American Hornbeam	1.5" CAL.	B&B	
7	CG	Carya glabra	Pignut Hickory	1.5" CAL.	B&B	
15	CO	Celtis occidentalis	Common Hackberry	1.5" CAL.	B&B	
13	CF	Cornus florida	Flowering Dogwood	1.5" CAL.	B&B	
11	PS	Prunus serotina	Black Cherry	1.5" CAL.	B&B	
7	QA	Quercus alba	White Oak	1.5" CAL.	B&B	
11	QR	Quercus rubra	Red Oak	1.5" CAL.	B&B	
Shrubs						
93	AC	Amelanchier canadensis	Canadian Serviceberry	18" Ht.	No. 3	6' O.C. MIN
48	AA	Aronia arbutifolia	Red Chokeberry	18" Ht.	No. 3	3' O.C. MIN
68	AM	Aronia melanocarpa	Black Chokeberry	18" Ht.	No. 3	3' O.C. MIN
24	CD	Cephalanthus occidentalis	Buttombush	18" Ht.	No. 3	3' O.C. MIN
54	CA	Clethra alnifolia	Sweet Pepperbush	18" Ht.	No. 3	3' O.C. MIN
25	CM	Cornus amomum	Silky Dogwood	18" Ht.	No. 3	3' O.C. MIN
46	CR	Cornus racemosa	Gray Dogwood	18" Ht.	No. 3	4' O.C. MIN
37	CS	Cornus sericea	Redosier Dogwood	18" Ht.	No. 3	3' O.C. MIN
43	CY	Corylus americana	Hazelnut	18" Ht.	No. 3	5' O.C. MIN
43	HV	Hamamelis virginiana	Witchhazel	18" Ht.	No. 3	6' O.C. MIN
30	IG	Ilex glabra	Inkberry	18" Ht.	No. 3	4' O.C. MIN
28	IV	Ilex verticillata	Winterberry	18" Ht.	No. 3	3' O.C. MIN
76	LB	Lindera benzoin	Spicebush	18" Ht.	No. 3	4' O.C. MIN
28	RP	Rosa palustris	Swamp Rose	18" Ht.	No. 3	3' O.C. MIN
12	SD	Salix discolor	Pussy Willow	18" Ht.	No. 3	3' O.C. MIN
59	SC	Sambucus canadensis	Elderberry	18" Ht.	No. 3	4' O.C. MIN
52	SA	Spiraea alba	Meadowsweet	18" Ht.	No. 3	3' O.C. MIN
54	ST	Spiraea tomentosa	Hardhack	18" Ht.	No. 3	3' O.C. MIN
28	VC	Vaccinium corymbosum	Highbush Blueberry	18" Ht.	No. 3	4' O.C. MIN
78	VA	Viburnum acerifolium	Maple-Leaf Viburnum	18" Ht.	No. 3	5' O.C. MIN
60	VD	Viburnum dentatum	Arrowwood Viburnum	18" Ht.	No. 3	5' O.C. MIN

PLANTING NOTES

- SEE PLANTING DETAILS ON SHEET 0007.
- SEE SEEDING PLAN ON SHEET 0005
- SHRUB GROUPINGS TO BE INFORMALLY SPACED IN A NON-GEOMETRIC, NATURAL LAYOUT, WITHIN AREAS DESIGNATED AS PER PLAN.
- IN SHRUB GROUPINGS WITH MULTIPLE PLANT TYPES, SPECIES SHOULD BE PLANTED IN A NON-HOMOGENIUS NATURE; MIXING SHRUB TYPES.
- REFER TO PLANTING SCHEDULE FOR MINIMUM SHRUB PLANT SPACING.
- TREE AND SHRUB PLANTING TO OCCUR BETWEEN SEPTEMBER 15 & DECEMBER 1 OR IN THE SPRING FROM MARCH 15 UNTIL JUNE 1.



SEE SHEET 0004

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____



URS Corporation

New York
 257 West Genesee Street, Suite 400
 Buffalo, New York 14202
 (716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

USA ENGINEERING
 CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
 Property of Iberdrola, USA

IBERDROLA - USA

REV.	DATE	BY	DESCRIPTION	APP.

PROPOSED WETLAND MITIGATION LANDSCAPE PLAN

ROCHESTER AREA RELIABILITY PROJECT

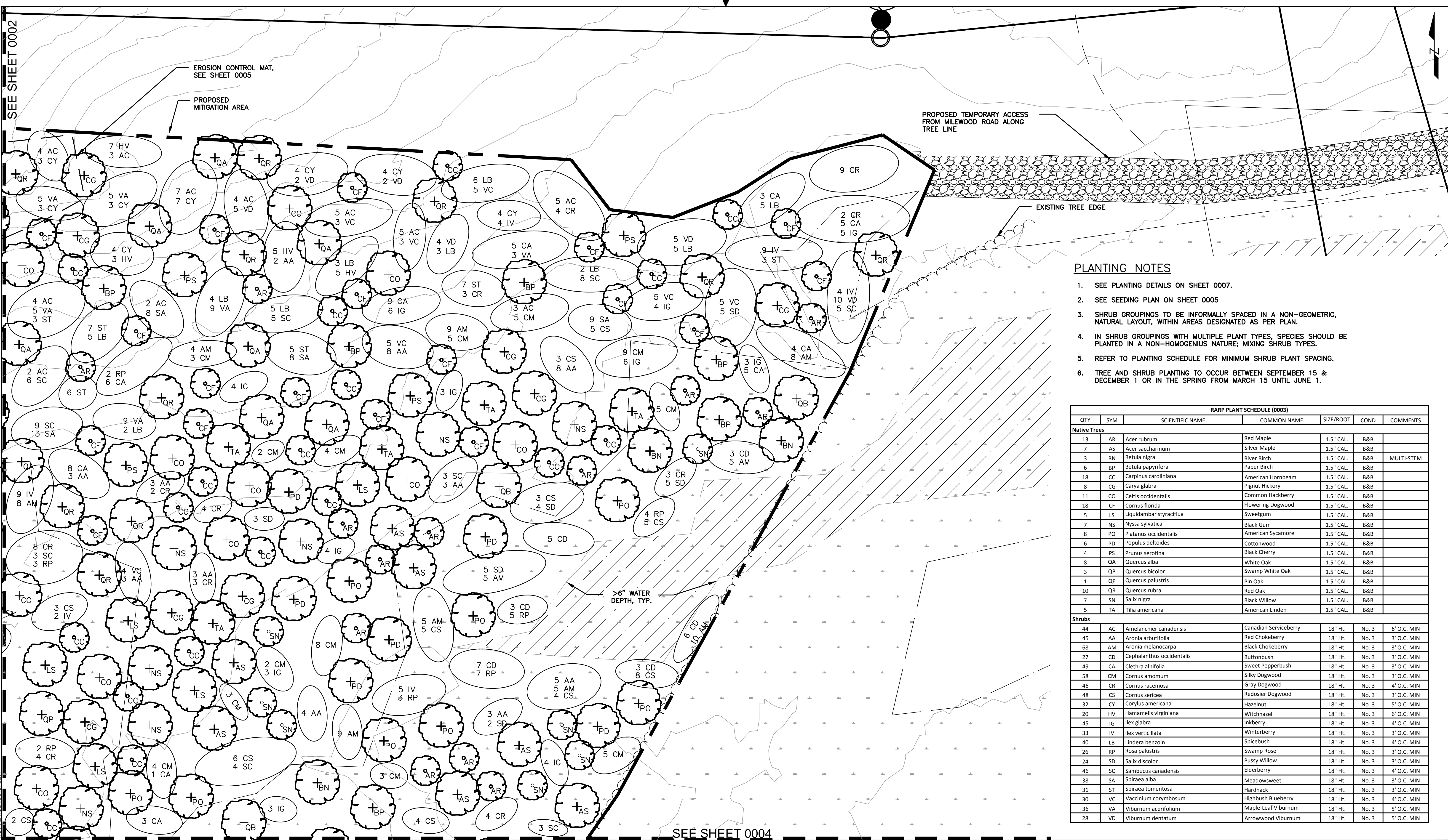
DR. TH SCALE: 1"=30'
 CK. CLL NO.
 APP. DATE: 4/26/16

0002

SEE SHEET 0002

CADD Drawing, DO NOT REVISE MANUALLY

K:\BD\BD\Geo\Yonn\MiscProjects_16\RARP_Krenzer\DWG\L1L-101.dwg 1=1, 5/3/2016-1, ELP



PLANTING NOTES

1. SEE PLANTING DETAILS ON SHEET 0007.
2. SEE SEEDING PLAN ON SHEET 0005
3. SHRUB GROUPINGS TO BE INFORMALLY SPACED IN A NON-GEOMETRIC, NATURAL LAYOUT, WITHIN AREAS DESIGNATED AS PER PLAN.
4. IN SHRUB GROUPINGS WITH MULTIPLE PLANT TYPES, SPECIES SHOULD BE PLANTED IN A NON-HOMOGENIUS NATURE; MIXING SHRUB TYPES.
5. REFER TO PLANTING SCHEDULE FOR MINIMUM SHRUB PLANT SPACING.
6. TREE AND SHRUB PLANTING TO OCCUR BETWEEN SEPTEMBER 15 & DECEMBER 1 OR IN THE SPRING FROM MARCH 15 UNTIL JUNE 1.

RARP PLANT SCHEDULE (0003)						
QTY	SYM	SCIENTIFIC NAME	COMMON NAME	SIZE/ROOT	COND	COMMENTS
Native Trees						
13	AR	Acer rubrum	Red Maple	1.5" CAL	B&B	
7	AS	Acer saccharinum	Silver Maple	1.5" CAL	B&B	
3	BN	Betula nigra	River Birch	1.5" CAL	B&B	MULTI-STEM
6	BP	Betula papyrifera	Paper Birch	1.5" CAL	B&B	
18	CC	Carpinus caroliniana	American Hornbeam	1.5" CAL	B&B	
8	CG	Carya glabra	Pignut Hickory	1.5" CAL	B&B	
11	CO	Celtis occidentalis	Common Hackberry	1.5" CAL	B&B	
18	CF	Cornus florida	Flowering Dogwood	1.5" CAL	B&B	
5	LS	Liquidambar styraciflua	Sweetgum	1.5" CAL	B&B	
7	NS	Nyssa sylvatica	Black Gum	1.5" CAL	B&B	
8	PO	Platanus occidentalis	American Sycamore	1.5" CAL	B&B	
6	PD	Populus deltoides	Cottonwood	1.5" CAL	B&B	
4	PS	Prunus serotina	Black Cherry	1.5" CAL	B&B	
8	QA	Quercus alba	White Oak	1.5" CAL	B&B	
3	QB	Quercus bicolor	Swamp White Oak	1.5" CAL	B&B	
1	QP	Quercus palustris	Pin Oak	1.5" CAL	B&B	
10	QR	Quercus rubra	Red Oak	1.5" CAL	B&B	
7	SN	Salix nigra	Black Willow	1.5" CAL	B&B	
5	TA	Tilia americana	American Linden	1.5" CAL	B&B	
Shrubs						
44	AC	Amelanchier canadensis	Canadian Serviceberry	18" Ht.	No. 3	6' O.C. MIN
45	AA	Aronia arbutifolia	Red Chokeberry	18" Ht.	No. 3	3' O.C. MIN
68	AM	Aronia melanocarpa	Black Chokeberry	18" Ht.	No. 3	3' O.C. MIN
27	CD	Cephalanthus occidentalis	Buttonbush	18" Ht.	No. 3	3' O.C. MIN
49	CA	Clethra alnifolia	Sweet Pepperbush	18" Ht.	No. 3	3' O.C. MIN
58	CM	Cornus amomum	Silky Dogwood	18" Ht.	No. 3	3' O.C. MIN
46	CR	Cornus racemosa	Gray Dogwood	18" Ht.	No. 3	4' O.C. MIN
48	CS	Cornus sericea	Redosier Dogwood	18" Ht.	No. 3	3' O.C. MIN
32	CY	Corylus americana	Hazelnut	18" Ht.	No. 3	5' O.C. MIN
20	HV	Hamamelis virginiana	Witchhazel	18" Ht.	No. 3	6' O.C. MIN
45	IG	Ilex glabra	Inkberry	18" Ht.	No. 3	4' O.C. MIN
33	IV	Ilex verticillata	Winterberry	18" Ht.	No. 3	3' O.C. MIN
40	LB	Lindera benzoin	Spicebush	18" Ht.	No. 3	4' O.C. MIN
26	RP	Rosa palustris	Swamp Rose	18" Ht.	No. 3	3' O.C. MIN
24	SD	Salix discolor	Pussy Willow	18" Ht.	No. 3	3' O.C. MIN
46	SC	Sambucus canadensis	Elderberry	18" Ht.	No. 3	4' O.C. MIN
38	SA	Spiraea alba	Meadowsweet	18" Ht.	No. 3	3' O.C. MIN
31	ST	Spiraea tomentosa	Hardhack	18" Ht.	No. 3	3' O.C. MIN
30	VC	Vaccinium corymbosum	Highbush Blueberry	18" Ht.	No. 3	4' O.C. MIN
36	VA	Viburnum acerifolium	Maple-Leaf Viburnum	18" Ht.	No. 3	5' O.C. MIN
28	VD	Viburnum dentatum	Arrowwood Viburnum	18" Ht.	No. 3	5' O.C. MIN

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____



URS Corporation

New York
 257 West Genesee Street, Suite 400
 Buffalo, New York 14202
 (716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

REV.	DATE	BY	DESCRIPTION

IBERDROLA - USA

CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
 Property of Iberdrola, USA

PROPOSED WETLAND MITIGATION LANDSCAPE PLAN

ROCHESTER AREA RELIABILITY PROJECT

DR. TH SCALE: 1"=30' FILE: XXXX3HXXXXX
 CK. CLL NO.
 APP. DATE: 4/26/16

0003



RARP PLANT SCHEDULE (0004)						
QTY	SYM	SCIENTIFIC NAME	COMMON NAME	SIZE/ROOT	COND	COMMENTS
Native Trees						
19	AR	Acer rubrum	Red Maple	1.5" CAL	B&B	
4	AS	Acer saccharinum	Silver Maple	1.5" CAL	B&B	
8	BN	Betula nigra	River Birch	1.5" CAL	B&B	MULTI-STEM
10	BP	Betula papyrifera	Paper Birch	1.5" CAL	B&B	
12	CC	Carpinus caroliniana	American Hornbeam	1.5" CAL	B&B	
4	CG	Carya glabra	Pignut Hickory	1.5" CAL	B&B	
6	CO	Celtis occidentalis	Common Hackberry	1.5" CAL	B&B	
11	CF	Cornus florida	Flowering Dogwood	1.5" CAL	B&B	
7	LS	Liquidambar styraciflua	Sweetgum	1.5" CAL	B&B	
7	NS	Nyssa sylvatica	Black Gum	1.5" CAL	B&B	
6	PO	Platanus occidentalis	American Sycamore	1.5" CAL	B&B	
4	PD	Populus deltoides	Cottonwood	1.5" CAL	B&B	
12	PS	Prunus serotina	Black Cherry	1.5" CAL	B&B	
6	QA	Quercus alba	White Oak	1.5" CAL	B&B	
12	QB	Quercus bicolor	Swamp White Oak	1.5" CAL	B&B	
14	QP	Quercus palustris	Pin Oak	1.5" CAL	B&B	
7	QR	Quercus rubra	Red Oak	1.5" CAL	B&B	
13	SN	Salix nigra	Black Willow	1.5" CAL	B&B	
5	TA	Tilia americana	American Linden	1.5" CAL	B&B	
Shrubs						
7	AC	Amelanchier canadensis	Canadian Serviceberry	18" HT.	No. 3	10' O.C. MIN
69	AA	Aronia arbutifolia	Red Chokeberry	18" HT.	No. 3	5' O.C. MIN
104	AM	Aronia melanocarpa	Black Chokeberry	18" HT.	No. 3	5' O.C. MIN
34	CD	Cephalanthus occidentalis	Buttonbush	18" HT.	No. 3	5' O.C. MIN
37	CA	Clethra alnifolia	Sweet Pepperbush	18" HT.	No. 3	5' O.C. MIN
56	CM	Cornus amomum	Silky Dogwood	18" HT.	No. 3	5' O.C. MIN
49	CR	Cornus racemosa	Gray Dogwood	18" HT.	No. 3	5' O.C. MIN
81	CS	Cornus sericea	Redosier Dogwood	18" HT.	No. 3	5' O.C. MIN
34	IG	Ilex glabra	Inkberry	18" HT.	No. 3	5' O.C. MIN
29	IV	Ilex verticillata	Winterberry	18" HT.	No. 3	5' O.C. MIN
90	RP	Rosa palustris	Swamp Rose	18" HT.	No. 2	5' O.C. MIN
13	SD	Salix discolor	Pussy Willow	18" HT.	No. 2	3' O.C. MIN
50	SC	Sambucus canadensis	Elderberry	18" HT.	No. 3	5' O.C. MIN
28	SA	Spiraea alba	Meadowsweet	18" HT.	No. 3	5' O.C. MIN
45	ST	Spiraea tomentosa	Hardhack	18" HT.	No. 3	5' O.C. MIN
27	VC	Vaccinium corymbosum	Highbush Blueberry	18" HT.	No. 3	4' O.C. MIN
44	VD	Viburnum dentatum	Arrowwood Viburnum	18" HT.	No. 3	5' O.C. MIN

PLANTING NOTES

- SEE PLANTING DETAILS ON SHEET 0007.
- SEE SEEDING PLAN ON SHEET 0005
- SHRUB GROUPINGS TO BE INFORMALLY SPACED IN A NON-GEOMETRIC, NATURAL LAYOUT, WITHIN AREAS DESIGNATED AS PER PLAN.
- IN SHRUB GROUPINGS WITH MULTIPLE PLANT TYPES, SPECIES SHOULD BE PLANTED IN A NON-HOMOGENIUS NATURE; MIXING SHRUB TYPES.
- REFER TO PLANTING SCHEDULE FOR MINIMUM SHRUB PLANT SPACING.
- TREE AND SHRUB PLANTING TO OCCUR BETWEEN SEPTEMBER 15 & DECEMBER 1 OR IN THE SPRING FROM MARCH 15 UNTIL JUNE 1.

CADD Drawing, DO NOT REVISE MANUALLY.

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____



URS Corporation

New York
 257 West Genesee Street, Suite 400
 Buffalo, New York 14202
 (716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

IUSA ENGINEERING
 CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
 Property of Iberdrola, USA

IBERDROLA - USA

PROPOSED WETLAND MITIGATION LANDSCAPE PLAN

ROCHESTER AREA RELIABILITY PROJECT

DR. TH SCALE: 1"=30' FILE: XXXXX SH XXXXX
 CK. CLL NO.
 APP. DATE: 4/26/16

0004



TEMPORARY ACCESS ROAD

CADD Drawing. DO NOT REVISE MANUALLY.

K:\BD\BD\Eco\Lynn\MiscProjects_16\RARP_Krenzer\DWG\LL-201.dwg 1=1, 5/3/2016-1, ELP

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____



URS Corporation
 New York
 257 West Genesee Street, Suite 400
 Buffalo, New York 14202
 (716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

IUSA ENGINEERING
 CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
 Property of Iberdrola, USA

REV.	DATE	BY	DESCRIPTION	APP.

IBERDROLA - USA

PROPOSED WETLAND MITIGATION
 LANDSCAPE SEEDING PLAN

ROCHESTER AREA RELIABILITY PROJECT

DR. TH SCALE: 1"=60' FILE: XXXX SH XXXX
 CK. CLL NO.
 APP. DATE: 4/26/16

0005 REV.

SEEDING LEGEND

- EROSION CONTROL MAT (SEE SHEET 0007 FOR DETAILS)
- UPLAND SEED MIX - 3.16 AC
32.6 PLS LB/AC - RATE OF APPLICATION
- WOODED WETLAND SEED MIX - 12.39 AC
32.8 PLS LB/AC - RATE OF APPLICATION
- EMERGENT WETLAND SEED MIX - 1.72 AC
33.9 PLS LB/AC - RATE OF APPLICATION

SEEDING NOTES

1. IF DEBRIS REMOVAL IS REQUIRED AS PART OF THE PLANTING PROCESS, ALL DEBRIS SHOULD BE REMOVED FROM THE SITE.
2. SEE SHEET 0006 FOR SEED MIX TYPES.
3. SEED ALL DISTURBED AREAS.
4. SEE SHEET 0007 FOR EROSION CONTROL MAT DETAILS
5. SEEDING SHALL OCCUR IN THE FALL SEASON BETWEEN SEPTEMBER 15 - OCTOBER 15 OR IN THE SPRING BETWEEN APRIL 1 - JUNE 1.

PROPOSED MITIGATION AREA - 17.0 AC

>6" WATER DEPTH, TYP.

>6" WATER DEPTH, TYP.

>6" WATER DEPTH, TYP.

>6" WATER DEPTH, TYP.

>6" WATER DEPTH, TYP.

UPLAND SEED MIX (3.16 AC)

Botanical Name	Common Name	% by No. of Seeds
Permanent Grasses/Sedges:		
<i>Festuca ovina</i>	Sheep Fescue	28.1%
<i>Panicum virgatum</i>	Switchgrass	26.0%
<i>Setaria italica</i>	Foxtail Millet	15.3%
<i>Anthoxanthum odoratum</i>	Sweet Vernal Grass	12.8%
<i>Lolium multiflorum</i>	Annual Ryegrass	11.1%
<i>Elymus canadensis</i>	Wild Rye	6.7%
Total		100.0%
PLS		
Temporary Cover:		
<i>Avena sativa</i>	Common Oat	360.00
<i>Lolium multiflorum</i>	Annual Rye	100.00
Total		460.00
Forbs:		
<i>Achillea millefolium</i>	Common Yarrow	47.5%
<i>Rudbeckia hirta</i>	Black Eyed Susan	9.1%
<i>Chrysanthemum leucanthem</i>	Ox-Eye Daisy	7.5%
<i>Verbena hastata</i>	Blue Vervain	7.4%
<i>Cichorium intybus</i>	Cichory	7.3%
<i>Lotus corniculatus</i>	Birdsfoot Trefoil	6.8%
<i>Hesperis matronalis</i>	Dame's Rocket	5.0%
<i>Daucus carota</i>	Queen Anne's Lace	2.2%
<i>Solidago canadensis</i>	Canada Goldenrod	2.0%
<i>Euthamia graminifolia</i>	Grass Leaf Goldenrod	2.0%
<i>Monarda fistulosa</i>	Wild Bergamot	1.5%
<i>Aster novae-angliae</i>	New England Aster	1.3%
Total		100.0%

WOODED WETLAND SEED MIX (12.39 AC)

Botanical Name	Common Name	Ounces/Acre
Permanent Grasses/Sedges:		
<i>Calamagrostis canadensis</i>	Bluejoint Grass	1.00
<i>Carex crinita</i>	Fringed Sedge	2.00
<i>Carex lupulina</i>	Common Hop Sedge	4.00
<i>Carex lurida</i>	Bottlebrush Sedge	1.50
<i>Carex frankii</i>	Bristly Cattail Sedge	3.00
<i>Carex squarosa</i>	Narrow-Leaved Cattail Sedge	1.00
<i>Carex typhina</i>	Common Cattail Sedge	1.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	4.00
<i>Elymus virginicus</i>	Virginia Wild Rye	20.00
<i>Glyceria striata</i>	Fowl Manna Grass	2.00
<i>Leersia oryzoides</i>	Rice Cut Grass	2.00
<i>Scirpus atrovirens</i>	Dark Green Rush	2.00
<i>Spartina pectinata</i>	Prairie Cord Grass	1.00
Total		44.50
Temporary Cover:		
<i>Avena sativa</i>	Common Oat	360.00
<i>Lolium multiflorum</i>	Annual Rye	100.00
Total		460.00
Forbs:		
<i>Alisma spp.</i>	Water Plantain (Various Mix)	3.00
<i>Angelica altropurpurea</i>	Great Angelica	1.00
<i>Aster puniceus</i>	Bristly Aster	0.75
<i>Aster umbellatus</i>	Flat-Top Aster	0.25
<i>Bidens cernua</i>	Nodding Bur Mangold	2.50
<i>Campanula americanus</i>	Tall Bellflower	0.25
<i>Cephalanthus occidentalis</i>	Buttonbush	0.50
<i>Helenium autumnale</i>	Sneezeweed	2.00
<i>Heracleum lanatum</i>	Cow Parsnip	0.75
<i>Hibiscus moscheutos</i>	Swamp Rose Mallow	2.00
<i>Lobelia siphilitica</i>	Great Blue Lobelia	1.50
<i>Lycopus americanus</i>	Common Water Horehound	0.25
<i>Mimulus ringens</i>	Monkey Flower	1.25
<i>Penthorum sedoides</i>	Ditch Stonecrop	0.50
<i>Polygonum spp.</i>	Pinkweed (Various Mix)	0.50
<i>Rudbeckia laciniata</i>	Wild Golden Glow	0.75
<i>Verbesina alternifolia</i>	Wingstem	2.00
Total		19.75

EMERGENT WETLAND SEED MIX (1.72 AC)

Botanical Name	Common Name	Ounces/Acre
Permanent Grasses/Sedges/Rushes:		
<i>Carex comosa</i>	Bristly Sedge	2.50
<i>Carex lacustris</i>	Common Lake Sedge	0.25
<i>Carex lurida</i>	Bottlebrush Sedge	4.00
<i>Carex vulpinoidea</i>	Brown Fox Sedge	6.00
<i>Eleocharis ovata</i>	Blunt Spike Rush	1.00
<i>Leersia oryzoides</i>	Rice Cut Grass	3.00
<i>Juncus effusus</i>	Common Rush	1.00
<i>Scirpus acutus</i>	Hard-stemmed Bulrush	2.50
<i>Scirpus pungens</i>	Chairmaker's Rush	4.00
<i>Scirpus validus</i>	Great Bulrush	6.00
Total		30.25
Temporary Cover:		
<i>Avena sativa</i>	Common Oat	360.00
<i>Lolium multiflorum</i>	Annual Rye	100.00
Total		460.00
Forbs:		
<i>Acorus calamus</i>	Sweet Flag	0.50
<i>Alisma spp.</i>	Water Plantain (Various Mix)	2.00
<i>Asclepias incarnata</i>	Swamp Milkweed	1.50
<i>Cephalanthus occidentalis</i>	Buttonbush	0.50
<i>Decodon verticillatus</i>	Swamp Loosestrife	0.50
<i>Eupatorium maculatum</i>	Spotted Joe-Pye Weed	0.50
<i>Hibiscus spp.</i>	Rosemallow (Various Mix)	3.00
<i>Iris virginica</i>	Blue Flag	6.00
<i>Lobelia cardinalis</i>	Cardinal Flower	0.25
<i>Lobelia siphilitica</i>	Great Blue Lobelia	1.50
<i>Lycopus americanus</i>	Common Water Horehound	0.25
<i>Mimulus ringens</i>	Monkey Flower	1.00
<i>Peltandra virginica</i>	Arrow Arum	16.00
<i>Penthorum sedoides</i>	Ditch Stonecrop	0.50
<i>Polygonum spp.</i>	Pinkweed (Various Mix)	0.50
<i>Pontederia cordata</i>	Pickerel Weed	10.00
<i>Sagittaria latifolia</i>	Common Arrowhead	2.00
<i>Sparganium americanum</i>	American Bur Reed	1.00
<i>Sparganium eurycarpum</i>	Common Bur Reed	4.00
<i>Verbena hastata</i>	Blue Vervain	1.00
Total		52.50

IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____

URS Corporation
 New York
 257 West Genesee Street, Suite 400
 Buffalo, New York 14202
 (716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

IUSA ENGINEERING
 CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
 Property of Iberdrola, USA

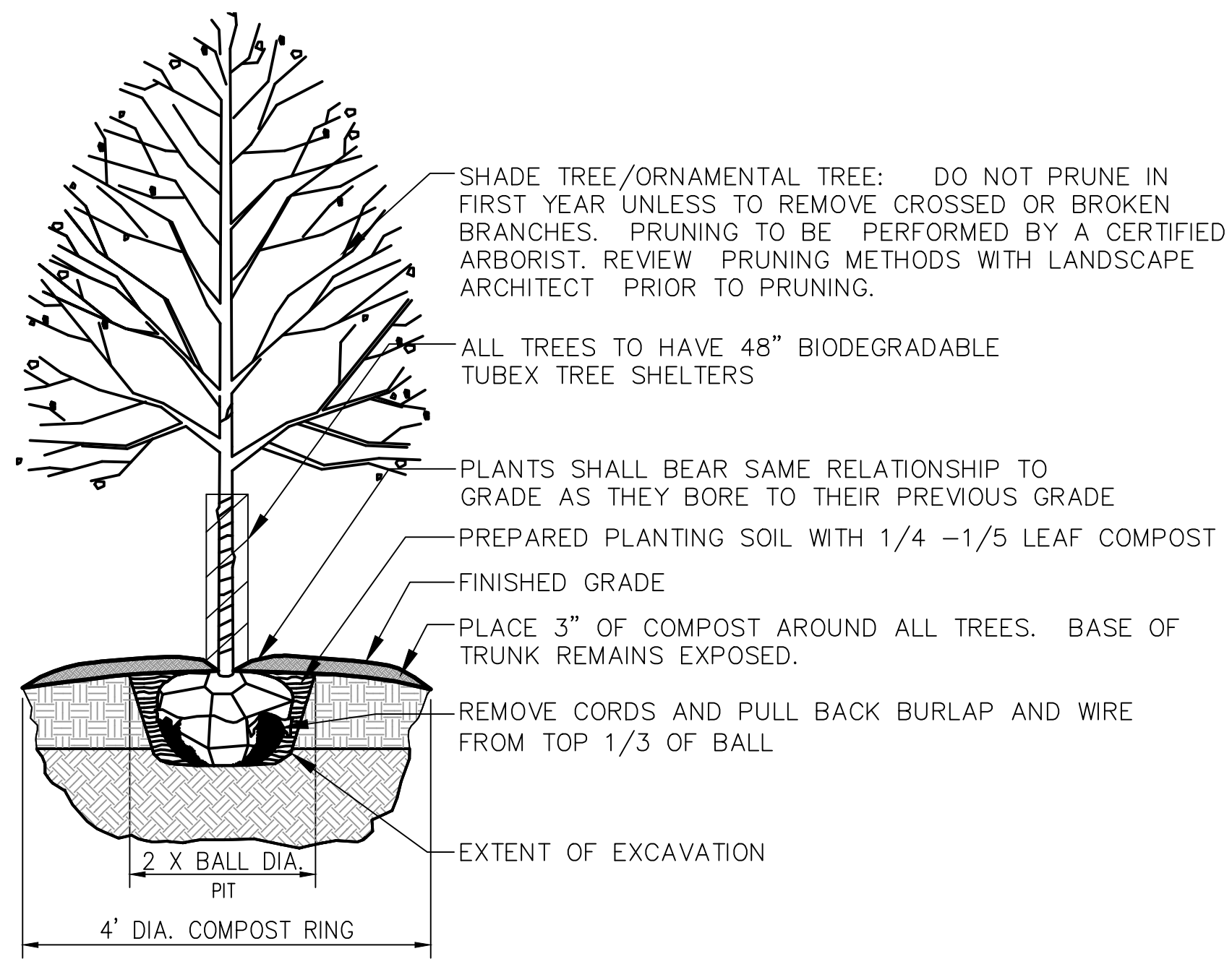
IBERDROLA - USA

PROPOSED WETLAND MITIGATION
 LANDSCAPE SEEDING PLAN

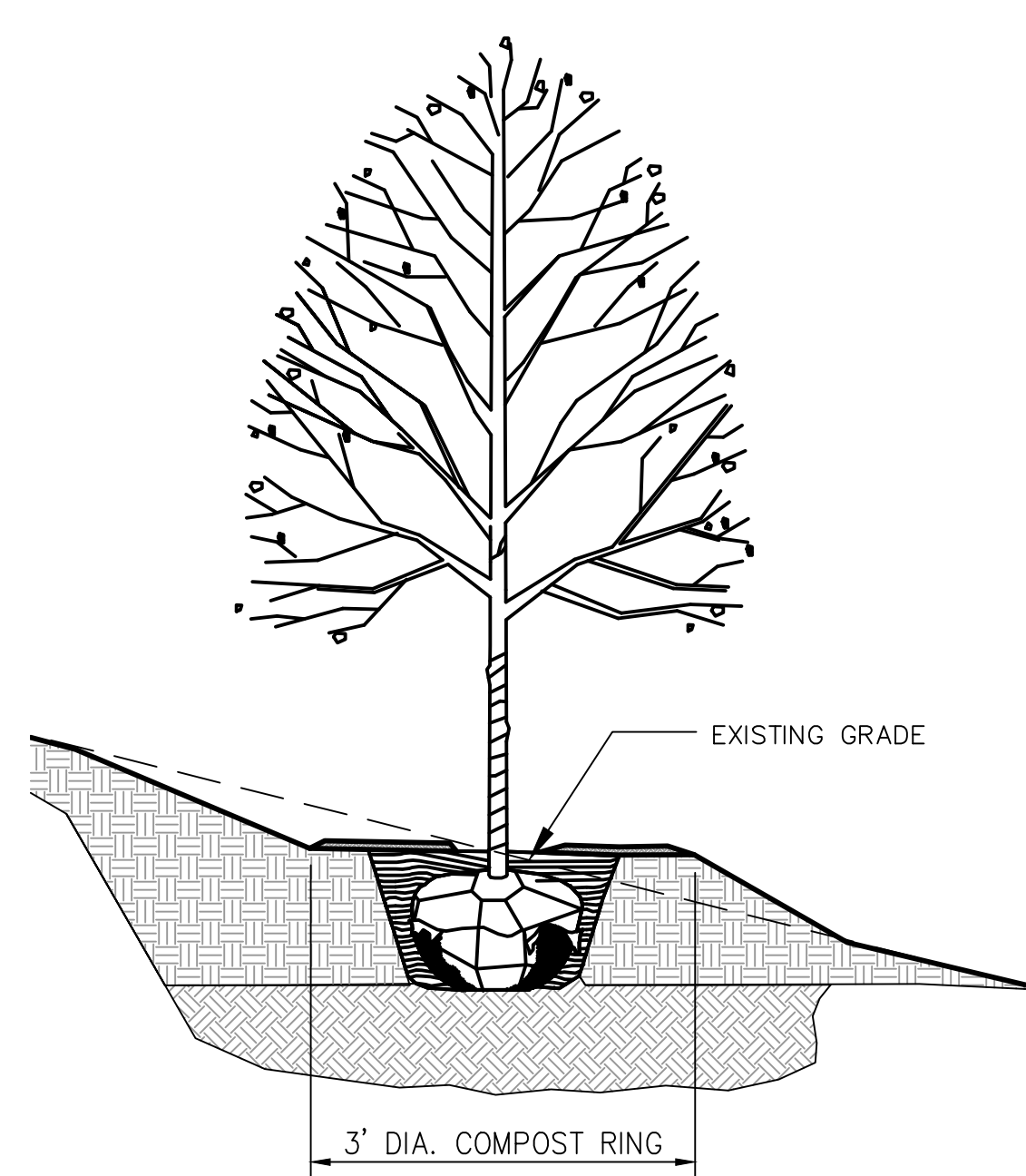
ROCHESTER AREA RELIABILITY PROJECT

DR.	TH	SCALE:	FILE: XXXX SH XXXX
CK.	CLL	NO.	
APP.			
DATE:	4/26/16		

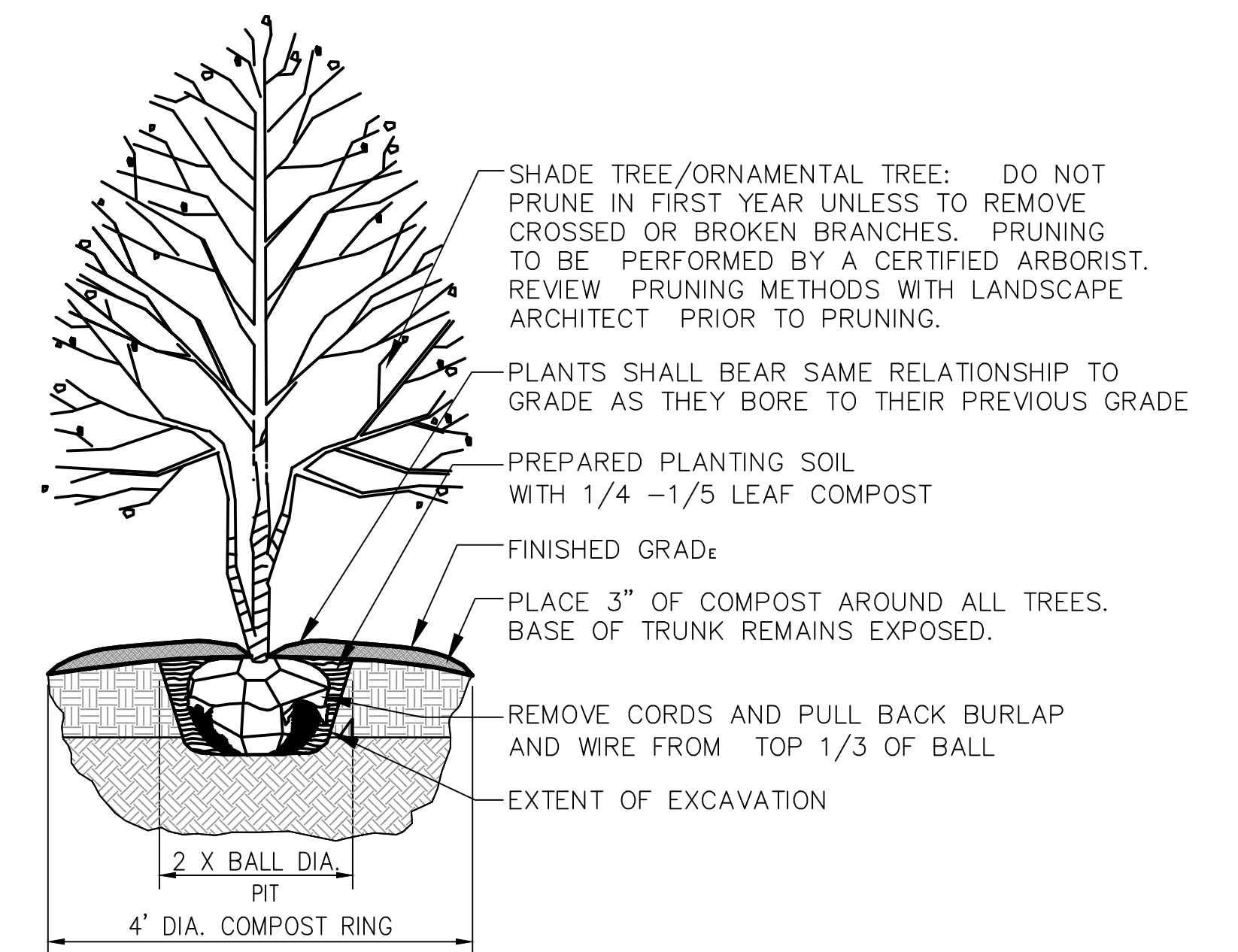
0006



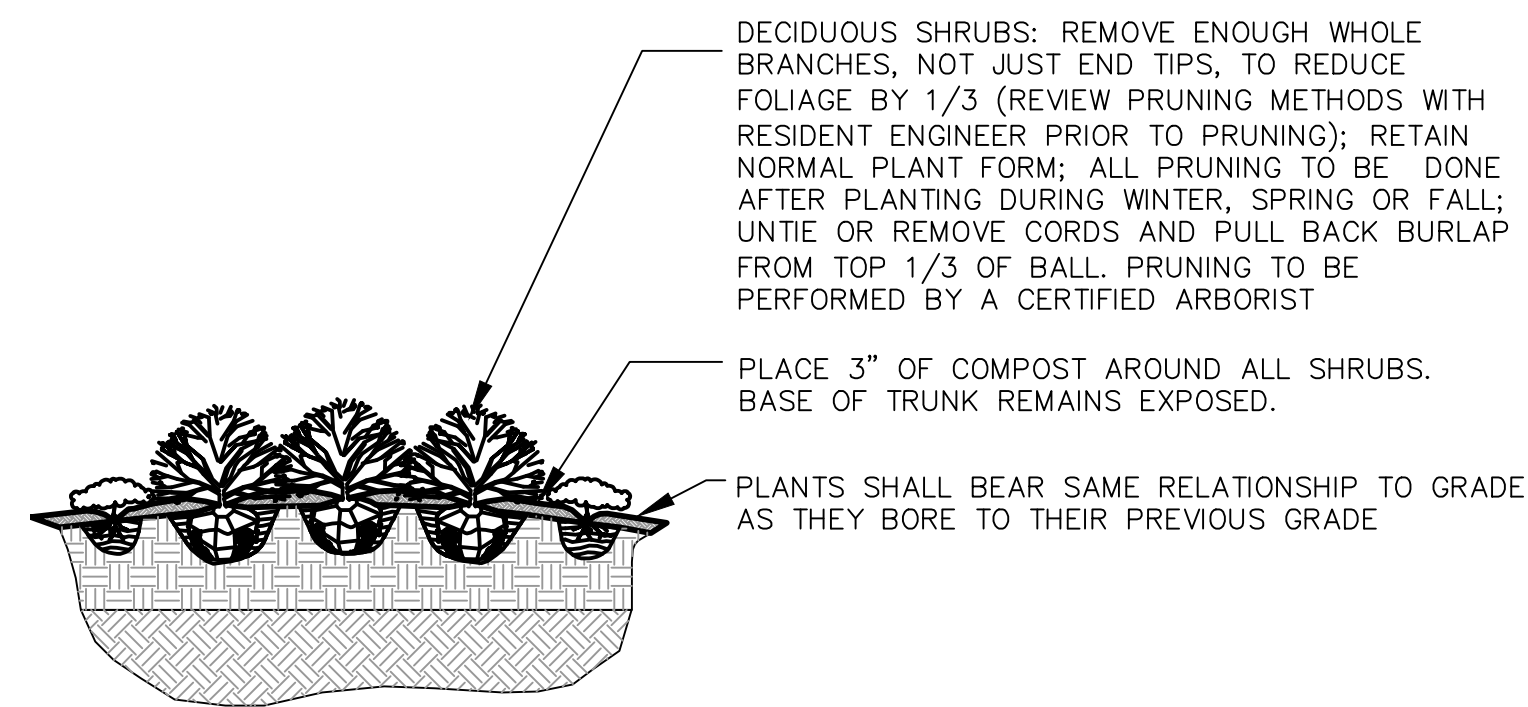
1 DECIDUOUS TREE DETAIL
NOT TO SCALE



2 TREE ON SLOPE PLANTING DETAIL
NOT TO SCALE



3 MULTI STEMMED TREE PLANTING DETAIL
NOT TO SCALE



4 SHRUB AND PERENNIAL PLANTING DETAIL
NOT TO SCALE

Slope Installation
Instructions EXCEL CC-4

Step 1 - Site Preparation

Prepare site to design profile and grade. Remove debris, rocks, clods, etc.. Ground surface should be smooth prior to installation to ensure blanket remains in contact with slope.

Step 2 - Seeding

Seeding of site should be conducted to design requirements or to follow local or state seeding requirements as necessary.

Step 3 - Staple Selection

At a minimum, 6 in. long by 1 in. crown, 11 gauge staples are to be used to secure the blanket to the ground surface. Installation in rocky, sandy or other loose soil may require longer staples.

Step 4 - Excavate Anchor Trench and Secure Blanket

Excavate a trench along the top of the slope to secure the upstream end of the blanket. The trench should run along the length of the installation, be 6 in. wide and 6 in. deep. Staple blanket along bottom of trench, fill with compacted soil, overlap blanket towards toe of slope and secure with row of staples (shown in Figures A, E).

Step 5 - Secure Body of Blanket

Roll blanket down slope from anchor trench. Staple body of blanket following the pattern shown in Figure D. Leave end of blanket unstapled to allow for overlap shown in Figure B. Place downstream blanket underneath upstream blanket to form shingle pattern. Staple seam as shown in Figure E. Secure downstream blanket with stapling pattern shown in Figure D. Stapling pattern shown in Figure D reflects minimum staples to be used. More staples may be required to ensure blanket is sufficiently secured to resist mowers and foot traffic and to ensure blanket is in contact with soil surface over the entire area of blanket. Further, critical points require additional staples. Critical points are identified in Figure G.

Step 6 - Continue Along Slope - Complete Installation

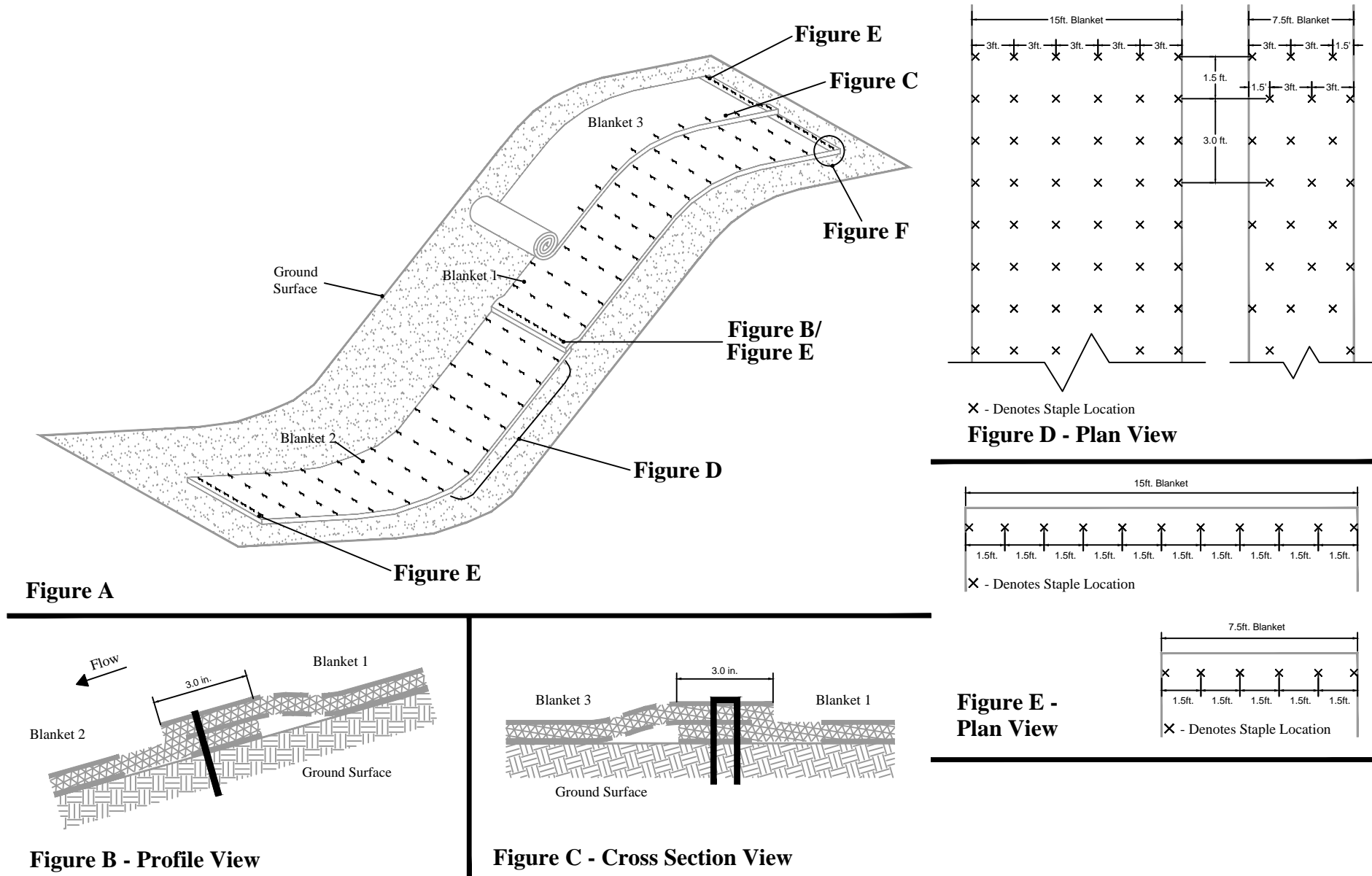
Overlap adjacent blankets as shown in Figure C and repeat Step 5. Secure toe of slope using stapling pattern shown in Figure E. Secure edges of installation by stapling at 1.5' intervals along the terminal edge.

Product Application/Equivalency Specifications

Excel CC-4 is produced by Western Excelsior and consists of a long term Rolled Erosion Control Product (RECP) comprised of a coconut matrix mechanically (stitch) bound between two, UV stabilized photodegradable synthetic nets (top and bottom). The expected longevity of Excel CC-4 is approximately 36 months (actual longevity dependent on field and climatic conditions). Excel CC-4 is manufactured to include physical properties sufficient to provide the intended longevity and performance. Product specifications may be found on document WE_EXCEL_CC4_SPEC and performance information may be found on document WE_EXCEL_CC4_PERF. All documents are available from Western Excelsior Technical Support or www.westernexcelsior.com. Additional to above, equivalent products to Excel CC-4 must meet identical criteria as Excel CC-4 as follows:

1. Consist of a coconut matrix mechanically (stitch) bound between two synthetic, UV stabilized photodegradable nets.
2. Sufficient tensile strength, thickness and coverage to maintain integrity during installation and ensure material performance.
3. Listing within AASHTO NTPEP database.
4. Meet ECTC specification for category 4 products.

5 EROSION CONTROL MAT DETAIL
NOT TO SCALE



IBERDROLA USA

REVIEWED & RELEASED
 REVIEWED & RELEASED AS CORRECTED
 NOT RELEASED

REVIEWED SOLELY FOR THE GENERAL COMPLIANCE WITH CONTRACT DOCUMENTS. REVIEW DOES NOT IMPLY ACCEPTANCE OF ANY MATERIAL, EQUIPMENT OR DESIGNS NOT FULFILLING ALL SPECIFICATION AND/OR CONTRACT REQUIREMENTS.

BY: _____ DATE: _____

URS Corporation
New York
257 West Genesee Street, Suite 400
Buffalo, New York 14202
(716)856-5636 - (716)856-2545 fax

REV	BY	DATE	REVISION DESCRIPTION
3.0	CLL	05/03/16	REVISED CONCEPT SUBMITTAL
2.0	CLL	04/26/16	REVISED CONCEPT SUBMITTAL
1.0	CLL	05/03/13	PRELIMINARY PERMIT REVIEW SUBMITTAL
0.0	CLL	04/25/13	50% PRELIMINARY REVIEW SUBMITTAL

PE Stamp

REV.	DATE	BY	DESCRIPTION

IUSA ENGINEERING
CONFIDENTIAL, PROPRIETARY and TRADE SECRET INFORMATION
Property of Iberdrola, USA

IBERDROLA - USA

REV.	DATE	BY	DESCRIPTION	APP.

LANDSCAPE DETAILS

ROCHESTER AREA RELIABILITY PROJECT

DR.	TH	SCALE:	FILE: XXXXX SH XXXXX
CK.	CLL	NO.	
APP.			
DATE:	4/26/16		

0007