

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Application of Champlain Hudson Power Express, Inc.
and CHPE Properties, Inc. for a Certificate of Environmental
Compatibility and Public Need Pursuant to Article VII
of the PSL for the Construction, Operation and Maintenance of
a High Voltage Direct Current Circuit from the Canadian
Border to New York City

Case 10-T-0139

AFFIRMATION OF WILLIAM A. HURST

WILLIAM A. HURST, hereby declares as follows pursuant to New York Civil Practice Law & Rules §2106:

1. I am an attorney duly licensed to practice law in the state of New York, and of Counsel to the law firm Greenberg Traurig, LLP, attorneys representing Entergy Nuclear Power Marketing, LLC and Entergy Nuclear FitzPatrick, LLC (collectively, “Entergy”), in the above-captioned N.Y. Public Service Law Article VII proceeding.
2. I make this affirmation in opposition to the motion by Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (collectively, “Applicants”) seeking to strike Entergy’s Brief on Exceptions. As Entergy’s counsel in this matter since the fall of 2010, I have personal knowledge of the matters recited herein.
3. On December 27, 2012, Public Service Commission (“Commission”) Acting Secretary Jeffrey C. Cohen issued a “Notice for Filing Exceptions” (“Notice”) in conjunction with the issuance of the Recommended Decision (“RD”) in this proceeding.¹ In pertinent part, the Notice stated, “[B]riefs on exceptions are due

¹ Case 10-T-0139, Application of Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the PSL for the

electronically to the Secretary at secretary@dps.gov and to all active parties by 4:00 p.m. on January 17, 2013.”²

4. At 3:19 p.m. on January 17, 2013, the undersigned, on Entergy’s behalf, transmitted Entergy’s Brief of Exceptions to the Commission Secretary electronically via e-mail at “secretary@dps.gov,” and, by “carbon copy” of the 3:19 p.m. e-mail, also electronically transmitted Entergy’s Brief to the Active Parties in this proceeding. The initial transmission, made in compliance with the deadline set forth in the Notice, was uneventful. Entergy has used this is same method of electronic service in each of its prior filings in this proceeding. A true and correct copy of the January 17 e-mail is annexed hereto as Exhibit “A.”
5. After a short break, the undersigned reviewed the items in the Microsoft Outlook “sent items” folder associated with my account to confirm that the 3:19 p.m. e-mail had actually left my virtual out-box. This is my standard custom and practice when serving documents or pleadings electronically. The 3:19 p.m. e-mail appeared in all respects to have been “sent.” I opened the message, re-read the cover note, then closed the message, satisfied that it was accurate and had been sent. All of this occurred before the 4:00 p.m. deadline.
6. Applicants have appended to their motion certain e-mail correspondence purporting to show that the Commission Secretary’s office did not receive the above e-mail, transmitted at 3:19 p.m., until 4:06 p.m. on January 17. Applicants further claim that they did not receive Entergy’s Brief until 4:57 p.m. Assuming the accuracy of that correspondence and of Applicants’ representations, 47 minutes would have elapsed

Construction, Operation and Maintenance of a High Voltage Direct Current Circuit from the Canadian Border to New York City, “Notice for Filing Exceptions” (issued December 27, 2012).

² Id.

between the time of electronic service and the time of the Secretary's receipt, and another 51 minutes would have elapsed between that time and the time of Applicants' receipt, even though they were copied on the same e-mail, transmitted simultaneously. I have never previously experienced that kind of delay and staggered delivery in this proceeding, although I have served numerous documents in the exactly same fashion.

7. Following service of Entergy's Brief, I received three (3) automated responses. This is not unusual in this proceeding where there are more than 100 party representatives with varying levels of participation, changes in status and representation over time, etc.
8. The first response, received from gedenotto@indeckenergy.com states, in pertinent part, "[T]he e-mail address you entered couldn't be found." At page 2 (just above the original message header), the automated response shows that Entergy transmitted the e-mail to which it was responding on "Thu, 17 Jan 2013 15:19:30." A true and correct copy of this automated response is annexed hereto as Exhibit "B."
9. Next, I received a single automated response on behalf of "Jeffrey.Meyers@oprhp.state.ny.us" (Jeffrey Meyers is no longer with that agency) and dan@schusterassociates.com. Page 2 of the Meyer/Schuster response (again, just above the original message header) also shows that the original message to which it replied was transmitted on "Thurs, 17 Jan 2013 15:19:30." A true and correct copy of this automated response is annexed hereto as Exhibit "C."
10. Finally, I received an "out of office" response from DPS Staff attorney Ashley Moreno. In pertinent part, that automated response stated:

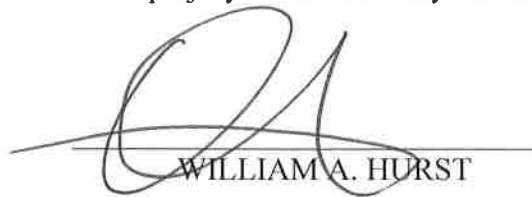
Note: This is an automated response to your message “Case 10-T-0139 – Champlain Hudson Power Express, Inc., et al. – Brief on Exceptions” **sent on 01/17/2013 15:19:28.**

A true and correct copy of Attorney Moreno’s out-of-office message is annexed hereto as Exhibit “D.” (Emphasis added).

11. None of the automated responses suggested that the 3:19 p.m. transmittal message was returned due to a server error or delay.

12. When I transmitted the e-mail containing Entergy’s Brief on Exceptions at 3:19 p.m. on January 17, I had every expectation that it would be filed with the Secretary, and that the Active Parties would have received it, long before the 4:00 p.m. deadline.

I affirm the foregoing to be true under penalties of perjury on this 28th day of January 2013.



WILLIAM A. HURST

EXHIBIT "A"

Hurst, William A. (OfCnsl-ALB-LT)

From: Hurst, William A. (OfCnsl-ALB-LT)
Sent: Thursday, January 17, 2013 3:19 PM
To: secretary@dps.ny.gov
Cc: bob.glasser@robertjglasserpc.com; kevin.casutto@dps.ny.gov; michelle.phillips@dps.ny.gov; janzevino@scenichudson.org; jsbanta@gw.dec.state.ny.us; beckj@coned.com; BeersA@co.rockland.ny.us; 'Anthony Belsito'; Steven.Blow@dps.ny.gov; david.bomke@nyecc.com; 'John Borchert'; matthew.brower@agriculture.ny.gov; abuckley@adironackcouncil.org; javier.bucobo@nypa.gov; 'Richard J. Koda'; stuart.caplan@snrdenton.com; tsc2@westchestergov.com; hcarlock@scenichudson.org; peter_casper@thruway.state.ny.us; fchase@trcsolutions.com; Nancy.Clarke@transmissiondevelopers.com; mcolomb@entergy.com; mcuevas@rwgmlaw.com; Michael.Curti@yonkersny.gov; jdax@daxlawfirm.com; ddeconstanzo@nrdc.org; mdelaney@cityhall.nyc.gov; gedenotto@indeckenergy.com; pjdesnoy@gw.dec.state.ny.us; jim.de.waal.malefyt@dps.ny.gov; gdiaman@ssmplaw.com; sdorsey@saratogacountyny.gov; roger.downs@sierraclub.org; david.drexler@dps.ny.gov; tdunn@velco.com; brian.duroy@yonkersny.gov; dean.ellis@dynegy.com; christopher.feldman@yonkersny.gov; lorif@lakechamplaincommittee.org; garamp@coned.com; paul.ghosh-roy@snrdenton.com; mg@markg.org; jgoodman@couchwhite.com; dgoodric@law.nyc.gov; Michelle.D.Grant@dynegy.com; grantl@co.rockland.ny.us; countyadministrator@discovergreene.com; headyj@oru.com; Bill.Helmer@transmissiondevelopers.com; dhintz@dot.state.ny.us; cmhogan@gw.dec.state.ny.us; COWPUSA@westchestergov.com; dbj@readlaniado.com; Chris.Jones@troutmansanders.com; jkemper@saratogacountyny.gov; brad.kranz@nrgenergy.com; Roymcl@aol.com; christopher@ippny.org; shlawr2@aol.com; aleja@hblaw.com; wglittle@gw.dec.state.ny.us; rloughney@couchwhite.com; JMacFarland@townofglenville.org; rmackow@entergy.com; tmarcelle@albanycounty.com; mmariotti@dot.state.ny.us; DMartelle@hblaw.com; lmartinez@nrdc.org; Brendan.McGrath@yonkersny.gov; Tom.McGuinness@thruway.state.ny.us; 'Jeffrey Meyers'; mmorelli@townofbethlehem.org; ashley.moreno@dps.ny.gov; Sean.f.murphy@hdrinc.com; phillip@riverkeeper.org; kmyers@Saugerties.ny.us; koneill@velco.com; John.Osinski@nypa.gov; michael.perrin@albanycounty.com; eaphilli@gw.dec.state.ny.us; wplache@law.nyc.gov; gpond@hblaw.com; jpotter@hinmanstraub.com; kpritchard@velco.com; Joseph.Rachiele@YonkersNY.gov; saul.rigberg@dos.ny.gov; Saia, Doreen Unis (Shld-ALB-GovAffairs); esenlet@hblaw.com; dan@schusterassociates.com; abe.silverman@nrgenergy.com; lsinger@couchwhite.com; diane.smith@agriculture.ny.gov; sspector@scenichudson.org; countyattorney@discovergreene.com; darren.suarez@bcnys.org; Steve.Sweeney@thruway.state.ny.us; wtaube@indeckenergy.com; tthackston@hess.com; Skerpon, Ted; David B. Johnson (dbj@readlaniado.com); Ken Podolny (kp@readlaniado.com); Pond, George M. (GPond@hblaw.com)
Subject: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al. - Brief on Exceptions
Attachments: 1659574_v 1_Entergy_s Brief on Exceptions (1.17.13).pdf

Dear Acting Secretary Cohen: On behalf of Entergy Nuclear Power Marketing, LLC and Entergy Nuclear FitzPatrick, LLC, please find attached our Brief on Exceptions to the Recommended Decision issued in the above-captioned Article VII

proceeding on December 27, 2012. Please do not hesitate to contact the undersigned should you have any questions regarding this filing.

Respectfully submitted,

William A. Hurst
Of Counsel
Greenberg Traurig, LLP | 54 State Street | Albany, NY 12207
Tel 518.689.1400
hurstw@gtlaw.com | www.gtlaw.com

ALBANY · AMSTERDAM · ATLANTA · AUSTIN · BOSTON · CHICAGO · DALLAS · DELAWARE · DENVER · FORT LAUDERDALE · HOUSTON · LAS VEGAS · LONDON* · LOS ANGELES · MEXICO CITY+ · MIAMI · NEW JERSEY · NEW YORK · ORANGE COUNTY · ORLANDO · PALM BEACH COUNTY · PHILADELPHIA · PHOENIX · SACRAMENTO · SAN FRANCISCO · SHANGHAI · SILICON VALLEY · TALLAHASSEE · TAMPA · TEL AVIV^ · TYSONS CORNER · WARSAW~ · WASHINGTON, D.C. · WHITE PLAINS *OPERATES AS GREENBERG TRAUIG MAHER LLP +OPERATES AS GREENBERG TRAUIG, S.C. ^A BRANCH OF GREENBERG TRAUIG, P.A., FLORIDA, USA ~OPERATES AS GREENBERG TRAUIG GRZESIAK sp.k.

PLEASE CONSIDER THE ENVIRONMENT BEFORE PRINTING THIS EMAIL

EXHIBIT "B"

Hurst, William A. (OfCnsl-ALB-LT)

From: Mail Delivery Subsystem <MAILER-DAEMON@mx0b-0006f201.pphosted.com>
To: gedenotto@indeckenergy.com
Sent: Thursday, January 17, 2013 4:22 PM
Subject: Undeliverable: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al. - Brief on Exceptions

Delivery has failed to these recipients or groups:

gedenotto@indeckenergy.com

The e-mail address you entered couldn't be found. Please check the recipient's e-mail address and try to resend the message. If the problem continues, please contact your helpdesk.

The following organization rejected your message: engage.indeckenergy.com.

Diagnostic information for administrators:

Generating server: mx0b-0006f201.pphosted.com

gedenotto@indeckenergy.com

engage.indeckenergy.com # <engage.indeckenergy.com #5.1.1 SMTP; 550 5.1.1 User unknown> #SMTP#

Original message headers:

Return-Path: <hurstw@gtlaw.com>

Received: from pps.filterd (m0001294 [127.0.0.1]) by mx0b-0006f201.pphosted.com (8.14.5/8.14.5) with SMTP id r0HL4NQ0016427; Thu, 17 Jan 2013 16:06:18 -0500

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Received: from mx4.gtlaw.com (mx4.gtlaw.com [72.5.84.4]) by
mx0b-0006f201.pphosted.com with ESMTP id 19xr00nk-8 (version=TLSv1/SSLv3
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with mapi id 14.02.0298.004; Thu, 17 Jan 2013 15:19:30 -0500

From: <hurstw@gtlaw.com>

To: <secretary@dps.ny.gov>

CC: <bob.glasser@robertjglasserpc.com>, <kevin.casutto@dps.ny.gov>,
<michelle.phillips@dps.ny.gov>, <janzevino@scenichudson.org>,
<jsbanta@gw.dec.state.ny.us>, <beckj@coned.com>, <BeersA@co.rockland.ny.us>,
<anthony_belsito@dps.ny.gov>, <Steven.Blow@dps.ny.gov>,
<david.bomke@nyecc.com>, <jborchert@cenhud.com>,
<matthew.brower@agriculture.ny.gov>, <abuckley@adironackcouncil.org>,
<javier.bucobo@nypa.gov>, <rjkoda@earthlink.net>,
<stuart.caplan@snrdenton.com>, <tsc2@westchestergov.com>,
<hcarlock@scenichudson.org>, <peter_casper@thruway.state.ny.us>,
<fchase@trcsolutions.com>, <Nancy.Clarke@transmissiondevelopers.com>,
<mcolomb@entergy.com>, <mcuevas@rwgmlaw.com>, <Michael.Curti@yonkersny.gov>,
<jdax@daxlawfirm.com>, <ddeconstanzo@nrhc.org>, <mdelaney@cityhall.nyc.gov>,
<gedenotto@indeckenergy.com>, <pjdesnoy@gw.dec.state.ny.us>,
<jim.de.waal.malefyt@dps.ny.gov>, <gdiaman@ssmplaw.com>,
<sdorsey@saratogacountyny.gov>, <roger.downs@sierraclub.org>,
<david.drexler@dps.ny.gov>, <tdunn@velco.com>, <brian.duroy@yonkersny.gov>,
<dean.ellis@dynegy.com>, <christopher.feldman@yonkersny.gov>,
<lorif@lakechamplaincommittee.org>, <garamp@coned.com>,
<paul.ghosh-roy@snrdenton.com>, <mg@markg.org>, <jgoodman@couchwhite.com>,
<dgoodric@law.nyc.gov>, <Michelle.D.Grant@dynegy.com>,
<grantl@co.rockland.ny.us>, <countyadministrator@discovergreene.com>,
<headyj@oru.com>, <Bill.Helmer@transmissiondevelopers.com>,

<dhintz@dot.state.ny.us>, <cmhogan@gw.dec.state.ny.us>, <COWPUSA@westchestergov.com>, <dbj@readlaniado.com>, <Chris.Jones@troutmansanders.com>, <jkemper@saratogacountyny.gov>, <brad.kranz@nrgenergy.com>, <Roymcl@aol.com>, <christopher@ippny.org>, <shlawr2@aol.com>, <aleja@hblaw.com>, <wglittle@gw.dec.state.ny.us>, <rloughney@couchwhite.com>, <JMacFarland@townofglenville.org>, <rmackow@entergy.com>, <tmarcelle@albanycounty.com>, <mmariotti@dot.state.ny.us>, <DMartelle@hblaw.com>, <lmartinez@nrdc.org>, <Brendan.McGrath@yonkersny.gov>, <Tom.McGuinness@thruway.state.ny.us>, <jeffrey.meyers@oprhp.state.ny.us>, <mmorelli@townofbethlehem.org>, <ashley.moreno@dps.ny.gov>, <Sean.f.murphy@hdrinc.com>, <phillip@riverkeeper.org>, <kmyers@Saugerties.ny.us>, <koneill@velco.com>, <John.Osinski@nypa.gov>, <michael.perrin@albanycounty.com>, <eaphilli@gw.dec.state.ny.us>, <wplache@law.nyc.gov>, <gpond@hblaw.com>, <jpotter@hinmanstraub.com>, <kpritchard@velco.com>, <Joseph.Rachiele@YonkersNY.gov>, <saul.rigberg@dos.ny.gov>, <SaiaD@gtlaw.com>, <esenlet@hblaw.com>, <dan@schusterassociates.com>, <abe.silverman@nrgenergy.com>, <lsinger@couchwhite.com>, <diane.smith@agriculture.ny.gov>, <sspector@scenichudson.org>, <countyattorney@discovergreene.com>, <darren.suarez@bcnys.org>, <Steve.Sweeney@thruway.state.ny.us>, <wtaube@indeckenergy.com>, <tthackston@hess.com>, <tskerpon@ibewlocal97.org>, <dbj@readlaniado.com>, <kp@readlaniado.com>, <GPond@hblaw.com>

Subject: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al. -
Brief on Exceptions

Thread-Topic: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al.
- Brief on Exceptions

Thread-Index: Ac3078KAizP41rMYTHiSx8iWi2UWOQ==

Date: Thu, 17 Jan 2013 20:19:28 +0000

Message-ID: <88F07FF2620B244D9D56077E49619F681DF65ECB@ALB-EX2010A.gtlaw.com>

Accept-Language: en-US

Content-Language: en-US

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

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x-originating-ip: [10.27.106.25]

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MIME-Version: 1.0

X-Proofpoint-Virus-Version: vendor=fsecure engine=2.50.10432:5.9.8327,1.0.431,0.0.0000
definitions=2013-01-17_06:2013-01-17,2013-01-17,1970-01-01 signatures=0

EXHIBIT “C”

Hurst, William A. (OfCnsl-ALB-LT)

From: Mail Delivery Subsystem <MAILER-DAEMON@mx0b-0006f201.pphosted.com>
To: jeffrey.meyers@oprhp.state.ny.us; dan@schusterassociates.com
Sent: Thursday, January 17, 2013 5:30 PM
Subject: Undeliverable: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al. - Brief on Exceptions

Delivery has failed to these recipients or groups:

jeffrey.meyers@oprhp.state.ny.us

The e-mail address you entered couldn't be found. Please check the recipient's e-mail address and try to resend the message. If the problem continues, please contact your helpdesk.

dan@schusterassociates.com

The recipient's e-mail address isn't correct. Please check the e-mail address and try to resend the message. If the problem continues, contact your helpdesk.

The following organization rejected your message: mail.oprhp.state.ny.us, schusterassociates.com.

Diagnostic information for administrators:

Generating server: mx0b-0006f201.pphosted.com

jeffrey.meyers@oprhp.state.ny.us

mail.oprhp.state.ny.us, schusterassociates.com #<mail.oprhp.state.ny.us #5.1.1 SMTP; 550 No such user (jeffrey.meyers@oprhp.state.ny.us)> #SMTP#

dan@schusterassociates.com

mail.oprhp.state.ny.us, schusterassociates.com #<schusterassociates.com #5.1.2 SMTP; 550 Host unknown> #SMTP#

Original message headers:

Return-Path: <hurstw@gtlaw.com>

Received: from pps.filterd (m0001294 [127.0.0.1]) by mx0b-0006f201.pphosted.com (8.14.5/8.14.5) with SMTP id r0HLSosk016406; Thu, 17 Jan 2013 16:58:07 -0500

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Received: from mx4.gtlaw.com (mx4.gtlaw.com [72.5.84.4]) by
mx0b-0006f201.pphosted.com with ESMTTP id 19xsmg0ec-3(version=TLSv1/SSLv3
cipher=AES256-SHA bits=256 verify=NOT); Thu, 17 Jan 2013 16:57:59 -0500
Received: from GT2-EXCAS04.gtlaw.com ([10.200.92.13]) by mx4.gtlaw.com
(8.14.4/8.14.4) with ESMTTP id r0HKJYiO030843 (version=TLSv1/SSLv3
cipher=AES128-SHA bits=128 verify=NOT); Thu, 17 Jan 2013 15:19:35 -0500
Received: from ALB-EX2010A.gtlaw.com (10.27.0.113) by GT2-EXCAS04.gtlaw.com
(10.200.92.13) with Microsoft SMTP Server (TLS) id 14.2.298.4; Thu, 17 Jan
2013 15:19:33 -0500
Received: from ALB-EX2010A.gtlaw.com ([::1]) by ALB-EX2010A.gtlaw.com ([::1])
with mapi id 14.02.0298.004; Thu, 17 Jan 2013 15:19:30 -0500
From: <hurstw@gtlaw.com>
To: <secretary@dps.ny.gov>
CC: <bob.glasser@robertjglasserpc.com>, <kevin.casutto@dps.ny.gov>,
<michelle.phillips@dps.ny.gov>, <janzevino@scenichudson.org>,
<jsbanta@gw.dec.state.ny.us>, <beckj@coned.com>, <BeersA@co.rockland.ny.us>,
<anthony_belsito@dps.ny.gov>, <Steven.Blow@dps.ny.gov>,
<david.bomke@nyecc.com>, <jborchert@cenhud.com>,
<matthew.brower@agriculture.ny.gov>, <abuckley@adironackcouncil.org>,
<javier.bucobo@nypa.gov>, <rjkoda@earthlink.net>,
<stuart.caplan@snnrdenton.com>, <tsc2@westchestergov.com>,
<hcarlock@scenichudson.org>, <peter_casper@thruway.state.ny.us>,
<fchase@trcsolutions.com>, <Nancy.Clarke@transmissiondevelopers.com>,
<mcolomb@entergy.com>, <mcuevas@rwgmlaw.com>, <Michael.Curti@yonkersny.gov>,
<jdax@daxlawfirm.com>, <ddeconstanzo@nrdc.org>, <mdelaney@cityhall.nyc.gov>,
<gedenotto@indeckenergy.com>, <pjdesnoy@gw.dec.state.ny.us>

<jim.de.waal.malefyt@dps.ny.gov>, <gdiaman@ssmplaw.com>, <sdorsey@saratogacountyny.gov>, <roger.downs@sierraclub.org>, <david.drexler@dps.ny.gov>, <tdunn@velco.com>, <brian.duroy@yonkersny.gov>, <dean.ellis@dynegy.com>, <christopher.feldman@yonkersny.gov>, <lorif@lakechamplaincommittee.org>, <garamp@coned.com>, <paul.ghosh-roy@snrdenton.com>, <mg@markg.org>, <jgoodman@couchwhite.com>, <dgoodric@law.nyc.gov>, <Michelle.D.Grant@dynegy.com>, <grantl@co.rockland.ny.us>, <countyadministrator@discovergreene.com>, <headyj@oru.com>, <Bill.Helmer@transmissiondevelopers.com>, <dhintz@dot.state.ny.us>, <cmhogan@gw.dec.state.ny.us>, <COWPUSA@westchestergov.com>, <dbj@readlaniado.com>, <Chris.Jones@troutmansanders.com>, <jkemper@saratogacountyny.gov>, <brad.kranz@nrgenergy.com>, <Roymcl@aol.com>, <christopher@ippny.org>, <shlawr2@aol.com>, <aleja@hblaw.com>, <wglittle@gw.dec.state.ny.us>, <rloughney@couchwhite.com>, <JMacFarland@townofglenville.org>, <rmackow@entergy.com>, <tmarcelle@albanycounty.com>, <mmariotti@dot.state.ny.us>, <DMartelle@hblaw.com>, <lmartinez@nrhc.org>, <Brendan.McGrath@yonkersny.gov>, <Tom.McGuinness@thruway.state.ny.us>, <jeffrey.meyers@oprhp.state.ny.us>, <mmorelli@townofbethlehem.org>, <ashley.moreno@dps.ny.gov>, <Sean.f.murphy@hdrinc.com>, <phillip@riverkeeper.org>, <kmyers@Saugerties.ny.us>, <koneill@velco.com>, <John.Osinski@nypa.gov>, <michael.perrin@albanycounty.com>, <eaphilli@gw.dec.state.ny.us>, <wplache@law.nyc.gov>, <gpond@hblaw.com>, <jpotter@hinmanstraub.com>, <kpritchard@velco.com>, <Joseph.Rachiele@YonkersNY.gov>, <saul.rigberg@dos.ny.gov>, <SaiaD@gtlaw.com>, <esenlet@hblaw.com>, <dan@schusterassociates.com>, <abe.silverman@nrgenergy.com>, <lsinger@couchwhite.com>, <diane.smith@agriculture.ny.gov>, <sspector@scenichudson.org>, <countyattorney@discovergreene.com>, <darren.suarez@bcnys.org>, <Steve.Sweeney@thruway.state.ny.us>, <wtaube@indeckenergy.com>, <tthackston@hess.com>, <tskerpon@ibewlocal97.org>, <dbj@readlaniado.com>, <kp@readlaniado.com>, <GPond@hblaw.com>

Subject: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al. -
Brief on Exceptions

Thread-Topic: Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al.
- Brief on Exceptions

Thread-Index: Ac3078KAizP41rMYTHiSx8iWi2UWOQ==

Date: Thu, 17 Jan 2013 20:19:28 +0000

Message-ID: <88F07FF2620B244D9D56077E49619F681DF65ECB@ALB-EX2010A.gtlaw.com>

Accept-Language: en-US

Content-Language: en-US

X-MS-Has-Attach: yes

X-MS-TNEF-Correlator:

x-workshareprotect-dsp: 9b68c2287b32c41eb20d3b9845671ba7

x-originating-ip: [10.27.106.25]

Content-Type: multipart/mixed;

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MIME-Version: 1.0

X-Proofpoint-Virus-Version: vendor=fsecure engine=2.50.10432:5.9.8327,1.0.431,0.0.0000
definitions=2013-01-17_09:2013-01-17,2013-01-17,1970-01-01 signatures=0

EXHIBIT “D”

Hurst, William A. (OfCnsl-ALB-LT)

From: Ashley.Moreno@dps.ny.gov
Sent: Thursday, January 17, 2013 10:03 PM
To: Hurst, William A. (OfCnsl-ALB-LT)
Subject: AUTO: Ashley Moreno is out of the office. (returning 01/28/2013)

I am out of the office until 01/28/2013.

If you need immediate assistance, please contact Janet Burg at 518-474-2527.

Note: This is an automated response to your message "Case 10-T-0139 - Champlain Hudson Power Express, Inc., et al. - Brief on Exceptions" sent on 01/17/2013 15:19:28.

This is the only notification you will receive while this person is away.