



Department of
Transportation

ANDREW M. CUOMO
Governor

PAUL A. KARAS
Acting Commissioner

JANICE A. McLACHLAN
Acting Chief Counsel

May 22, 2018

Via email only: secretary@dps.ny.gov

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza
Agency Building 3
Albany, NY 12223-1350


Re: Case 10-T-0139
Application of Champlain Hudson Power Express, Inc.
Permit Modification to Art. VII Route

Dear Secretary Burgess:

The NYS Department of Transportation (NYSDOT) submits the following in relation to the above referenced project. Subsequent to the April 2013 Article VII permit, it has become necessary that the applicant make certain adjustments to its proposed route. It has become apparent that some of the applicant's proposed adjustments will have unacceptable impacts, as proposed, upon Route 9W in Rockland County. The NYSDOT has brought its concerns to the attention of the applicant, and those concerns are more fully articulated in a May 1, 2018 letter, a full, true and complete copy of which is enclosed for the record.

NYSDOT reserves the right to submit additional comments.

Respectfully submitted,



KEITH D. MARTIN, Associate Attorney
NYS Department of Transportation
Division of Legal Affairs

KDM/kdm
KDM4117_FINAL / DLA 17-06074

cc: via email only
Donna K. Hintz, Associate Attorney, NYSDOT

Re: Case 10-T-0139
Application of Champlain Hudson Power Express, Inc.
Permit Modification to Art. VII Route
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Cc's cont'd. via email only

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Active Parties



Department of
Transportation

ANDREW M. CUOMO
Governor

PAUL A. KARAS
Acting Commissioner

LANCE MacMILLAN, P.E.
Acting Regional Director

May 1, 2018

Gene Martin
Transmission Developer Inc.
Pieter Schuyler Building
600 Broadway
Albany, NY 12207

Re: SEQR 18-053 Route 9W
Champlain Hudson Pipeline Permit
Rockland County

Dear Sir:

Thank you for meeting with the Department of Transportation on April 4, 2018. The purpose of this letter is to outline our concerns from the meeting.

Our primary concern is with the location of the proposed pipeline within the highway pavement section of Route 9W. 17 NYCRR 131.8(b)(2) of the Accommodation of Utilities in the State Highway Right of Way states:

(2) All new or relocated longitudinal installations of underground elements shall be located in accordance with the following in order of preference:

- (i) Between the outer edge of sidewalk and the Rights-of-Way line;*
- (ii) Underneath the sidewalk;*
- (iii) Between the curb and sidewalk;*
- (iv) Underneath the roadway pavement of a parking lane;*
- (v) Underneath the roadway pavement, only if other locations are neither feasible nor practicable, and only if the Department after examination finds that the safety and integrity of the highway traffic operations and highway maintenance will not be jeopardized by the installation and subsequent maintenance of the utility.*

The Department's engineering opinion is that other locations in the Right-of-Way (ROW) are both practicable and feasible; furthermore, construction within the highway pavement area will severely impact traffic. Subsequent maintenance operations in, and around the vault structures will also be a further impediment to traffic. Consistent with Section 131.8(b)(2) the Department requests that the proposed transmission line and structures be moved beyond the outer edge of the pavement and as close to the ROW line as possible.

If the applicant determines that site conditions warrant installation within the highway pavement area and no practicable and feasible location can be found elsewhere within the ROW, the applicant may submit an Engineering Report to the Department for review. If the Department finds that the safety and integrity of the highway traffic operations and highway maintenance will not be jeopardized by the installation and subsequent maintenance of the utility and unusual physical conditions are present, the Department may grant an exemption. This exemption will be for limited, finite sections and not on a project wide basis. The applicant will be required to perform soil borings and or other soil investigations to demonstrate that construction in the highway pavement area is the only practicable and feasible alternative to qualify for this exemption.

Gene Martin
May 1, 2018

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The Department's second concern is with the method of construction. The open-cut method of construction is prohibited unless no other method is feasible. The applicant may submit a written request with justification to use the open-cut method of construction. Please refer to Section 3.03.01 from the *Requirements for the Design and Construction of Underground Installations within the State Highway Right of Way* which reads as follows:

3.03.01 Installation by open excavation will be permitted only upon demonstration of necessity or other conditions which warrant such a procedure. Subsurface rock formations, excessive presence of boulders, excessive and damaging skin friction during jacking operations, or insufficient Right-of-Way to allow jacking, boring, etc., may constitute a necessity. Where an ongoing or upcoming construction contract requires pavement removal and/or construction of new pavement, the Region may consider approving an open cut.

The open cut exemption will only be approved for limited finite sections and not on a project-wide basis.

In addition to these requirements, the applicant must prepare a Maintenance and Protection of Traffic Plan (M&PT) and a Restoration Plan commensurate with the level and intensity of the construction. The applicant is reminded that all operations shall be conducted so as not to interfere with, interrupt, or endanger the operation of traffic, nor damage, destroy, or endanger the integrity of State facilities or adjacent properties. If work impacts an existing traffic signal system, the applicant shall so indicate this on the plans. The applicant shall repair any damage caused to existing signal installations. Traffic-actuated phases shall remain actuated, and signals operating within signal systems shall remain coordinated during construction.

I would be more than happy to arrange another meeting to discuss your project and we look forward to receiving plans that address the Department's concerns. If you have any questions please contact me at (845) 437-3396, or Lee.Zimmer@dot.ny.gov.

Sincerely,



Lee Zimmer P.E.

Region 8 Permits and Signals