

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on June 18, 2013

COMMISSIONER PRESENT:

Garry A. Brown, Chairman

CASE 00-F-2057 - Application by Besicorp-Empire Development Company, LLC for a Certificate of Environmental Compatibility and Public Need to Construct and Operate a 505 Megawatt, Combined Cycle Cogeneration Plant in the City of Rensselaer, Rensselaer County.

ORDER APPROVING COMPLIANCE FILING  
AS EFFECTIVE SUBJECT TO CONDITION

(Issued and Effective June 18, 2013)

INTRODUCTION

Empire Generation Co, LLC (Empire) submitted a compliance filing on May 20, 2013, pursuant to 16 NYCRR §1003.3 and Condition XIV of the Article X Certificate.<sup>1</sup> That condition provides, in pertinent part:<sup>2</sup>

- A. At the time commercial operation begins, the amount of the financial security shall be increased to \$7,000,000. Thereafter the fund shall be increased every two years, as necessary, to reflect inflation of labor and all other

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<sup>1</sup> Case 00-F-2057, Besicorp-Empire Development Company, LLC, Opinion and Order Granting Certificate of Environmental Compatibility and Public Need (issued September 24, 2004, by the New York State Board on Electric Generation Siting and the Environment). Empire is the successor in interest to Besicorp-Empire Development Company, LLC.

<sup>2</sup> The Certificate Holder was required to submit a letter of credit or comparable form of financial security.

relevant decommissioning costs, and reexamination of costs by an experienced demolition expert.

- B. Upon commencement of commercial operation of the Cogeneration Plant, the Certificate holder shall increase the amount of the financial security to \$7 million and subsequently to the amount determined biennially after submission of a compliance filing.

The compliance filing discussed an escalation of the \$7 million amount by slightly more than 12% due to the increase in the labor rate applicable to demolition (i.e., to \$7,848,628).<sup>3</sup> It also included an evaluation of the salvage value of plant components and material that would negate the need to increase the amount of financial security and could offset a portion of the \$7 million of financial security.

Pursuant to 16 NYCRR §1003.3(d), any party receiving a compliance filing may file comments within 15 days of service. No comments were timely received.

The revenue from salvaged metal can vary significantly. As conceded in the compliance filing, price swings in scrap metal indices have ranged from plus 50% to minus 50% in the last five years, depending on the metal, given demand, economic conditions and global influences. In view of this volatility, no offset of the inflation adjustment to the \$7 million of financial security is warranted. Accordingly, the compliance filing on reevaluation of decommissioning costs is approved, subject to a condition.

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<sup>3</sup> The escalation was based on RS Means Labor Rates for the Construction Industry.

It is ordered:

1. The compliance filing on reevaluation of decommissioning costs is approved, subject to the condition that the Certificate Holder file, within 30 days after issuance of this Order, a letter of credit in the amount of \$7,848,628.

2. This proceeding is continued.

(SIGNED)

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Commissioner