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November 10, 2014

Via Electronic Mail Kevin.casutto@dps.ny.gov

Kevin J. Casutto, Administrative Law Judge
NYS Department of Public Service
Office of Hearings and Alternative Dispute Resolution
3 Empire State Plaza
Albany, NY 12223-1350

Re: Case 13-T-0292 WEST POINT PARTNERS, LLC
Proposed Certificate Conditions – Updated and Corrected

Dear Judge Casutto:

I am writing to submit an updated and corrected version of two proposed certificate conditions that were included in the West Point Partners, LLC (WPP) Application. The proposed certificate conditions have been marked for identification as Hearing Exhibit 100. As noted on page 1 of Exhibit 100:

The Proposed Certificate Conditions are based on similar conditions recently adopted by the Commission for similar projects. Specifically, the conditions adopted in Case 08-T-0034 - Hudson Transmission Partners LLC were the starting point. Conditions not relevant to West Point Project were deleted and changes were made to eliminate duplication and overlap. To address topics that were not pertinent in Case 08-T-0034 and therefore not addressed, additions were made based on the conditions adopted in Case 10-T-0139 Champlain Hudson Power Express.

During cross-examination by Department of Environmental Conservation and Riverkeeper, WPP witnesses agreed that two proposed conditions – concerning the standards and means for monitoring water quality and benthic conditions during and following installation of the cable in the Hudson River – had not been revised to reflect either the length of the in-River

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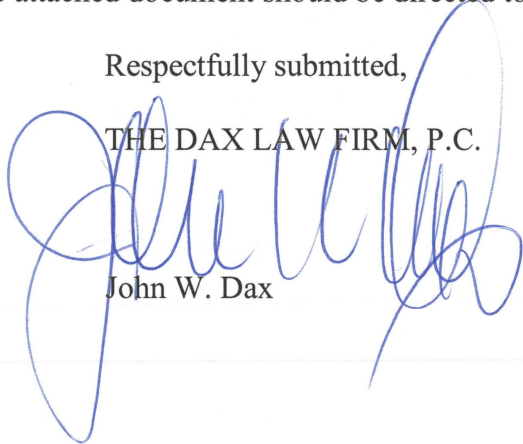
cable route WPP is proposing or the classification assigned to the water quality in the portions of the river in which WPP proposes to locate its cable. Accordingly, WPP has amended Proposed Certificate Conditions 49 and 57 to conform them to the applicable standards and to reflect that benthic monitoring will be conducted at fifty-six (56) rather than five (5) sampling locations.

Any questions concerning the attached document should be directed to me.

Respectfully submitted,

THE DAX LAW FIRM, P.C.

John W. Dax



JWD:lm

Enclosures

cc: Hon. Kathleen H. Burgess
NY PSC Active Parties

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49. Water Quality:

- (a) During jet plow installation, the Certificate Holder shall measure turbidity (NTU), TSS, hardness, total Polychlorinated Biphenyls (PCB) (method 608), phenanthrene, arsenic, cadmium, copper, mercury and lead concentrations within the water column of the Hudson River at a point outside the effects of the jetting event (the up-current background station) and at the transect(s) down-current of the operating jet plow as described in the Monitoring Plan. Metals shall be reported both as totals and as dissolved fractions, except mercury, which shall be reported as total mercury. Up-current samples shall be collected at a location at least 500 feet up-current of the jet plow (or at such greater distance as may be required to maintain a safe distance from the cable vessel) outside the effect of the jet plowing. Down-current samples will be collected 500 feet down-current of the jet plow. Samples shall be collected at three depths: approximately eighteen (18) inches below the surface, at mid-depth and at three feet above the bottom.

- (d) During jet plow installation of the cable, the concentrations of total PCBs, phenanthrene, total mercury, and of the dissolved fraction of arsenic, cadmium, copper and lead, measured in the samples collected 500 feet down-current of the jet plow shall not exceed the greater of: (a) the levels set forth in the table below or (b) 1.3 times the highest ambient background level measured during the same sampling day at the up-current background station at the same depth as the down-current sample.

WEST POINT PARTNERS				
In-River Cable Installation Water Quality Standards				
River Mile (RM)	NYSDEC WQ Classification	Contaminant	Standard	Unit
Northern Landfall to RM 65	A (Fresh surface water)	Arsenic	50	ug/L
		Dissolved Cadmium	5	ug/L
		Dissolved Copper	200	ug/L
		Dissolved Lead	50	ug/L
		Total Mercury	0.7	ug/L
		Total PCBs	0.09	ug/L
		Phenanthrene*	45	ug/L
RM 65-47	B (Fresh surface water)	Dissolved Arsenic	340	ug/L
		Dissolved Cadmium	(0.85) exp(1.128 [ln (measured hardness in ppm)]) - 3.6867)	ug/L
		Dissolved Copper	(0.96) exp(0.9422 [ln (measured hardness in ppm)]) - 1.7)	ug/L
		Dissolved Lead	{1.46203 - [ln (hardness) (0.145712)]} exp (1.273 [ln (hardness)]) - 1.052)	ug/L
		Dissolved Mercury	1.4	ug/L
		Total PCBs	0.2 per aroclor	ug/L
		Phenanthrene*	45	ug/L
RM 47 to Southern Landfall	SB (Saline surface water)	Dissolved Arsenic	63	ug/L
		Dissolved Cadmium	7.7	ug/L
		Dissolved Copper	7.9	ug/L
		Dissolved Lead	204	ug/L
		Total Mercury	0.05**	ug/L
		Total PCBs	0.2 per aroclor	ug/L
		Phenanthrene*	14	ug/L
* Assumes low level analysis, compared to standard level. Phenanthrene will be used as an indicator for the total concentration of Polycyclic Aromatic Hydrocarbons (PAHs).				
** Standard based on General Level Currently Achievable described in TOGS 1.3.10.				

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57. Pre-and Post Installation Monitoring:

- (a) A pre-and post-installation sediment monitoring plan shall be submitted in the EM&CP after consultation with DEC Staff and DPS Staff. The results of that consultation shall be reported in the plan submission. The plan shall provide that pre-and post-installation surficial sediment samples (top two centimeters) will be collected and analyzed prior to and subsequent to the completion of jet plow installation of the cable system, and that post-installation sampling shall commence promptly after the completion of the jet plow installation process. Specific methods and equipment shall be described to ensure the top two centimeters of ambient sediment are adequately collected, retained and sequestered for analysis. Samples shall be collected and analyzed for arsenic, cadmium, copper, lead, mercury, total PCBs using a congener-specific method, as outlined in the USACE/Environmental Protection Agency (EPA) Regional Testing Manual for Dredged Materials, and total PAH. Surficial sediment samples shall be collected at stations located at or near (within 200 feet) of the vibracore sampling stations described in Appendix 4B, with the final locations to be determined after consultation with DEC Staff and DPS Staff. Approximately fifty-six (56) locations will be identified from which the sampling stations shall be established. At each location, three samples will be obtained: one sample will be collected along the Project route and one sample will be collected on each side of the Project route at a distance of approximately 100 feet for a total of three samples per location. The Certificate Holder shall submit to the DEC Staff and

DPS Staff a report which provides the analytical results, and compares them to pre-installation chemical concentrations in surficial sediments located along the approved route.