

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Verified Petition Of New York Transco LLC For An Expedited
Order Granting A Certificate Of Public Convenience And
Necessity Pursuant To Section 68 Of The Public Service Law

Case 21-E-_____

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ORDER GRANTING A CERTIFICATE OF PUBLIC CONVENIENCE AND
NECESSITY PURSUANT TO SECTION 68 OF THE PUBLIC SERVICE LAW**

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Pursuant to Public Service Law (“PSL”) § 68, 16 NYCRR Parts 17 and 21, and the New York State Public Service Commission’s (the “Commission”) prior direction,¹ New York Transco LLC (“Transco”) respectfully submits this verified petition (the “Verified Petition”) for an expedited order granting it a Certificate of Public Convenience and Necessity (“CPCN”) to: (1) construct and operate the Rock Tavern to Sugarloaf project (the “RTS Project”); and (2) exercise certain rights and privileges granted under four municipal Road Use Agreements (together, the “RUAs”), which are attached as Exhibit 1.² As detailed below, the RTS Project is convenient and necessary for the public service and, therefore, the Commission should grant the requested CPCN

¹ Case 15-E-0743, *Petition of New York Transco LLC for an Order Providing for Lightened Regulation*, Order Granting Certificate of Public Convenience and Necessity (Issued May 6, 2016), at 7 (the “Original CPCN Order”); see also Case 20-E-0551, *Petition of New York Transco LLC for an Expedited Order Granting it a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law and Confirmation of its Lightened Regulatory Status*, Order Granting Certificate of Public Convenience and Necessity and Confirming Lightened Regulation (Issued Feb 23, 2021), at 14 (the “NYES CPCN Order”).

² As detailed below, in order to allow Transco to begin to construct and operate the RTS Project without delay, Transco respectfully requests that the Commission issue an order deciding this Verified Petition at the January 2022 session, or the same (or an earlier) session that the Commission issues an order addressing Transco’s pending Phase I Environmental Management and Control Plan for the RTS Project (the “Phase I EM&CP”) (see Case 20-T-0549, *Application of New York Transco LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the New York Public Service Law to Construct, Operate, and Maintain a New, Single-Circuit 12-mile Overhead 115 kV Electric Transmission Line and Related Facilities In the Towns of New Windsor, Hamptonburgh, Blooming Grove, and Chester in Orange County*, Rock Tavern to Sugarloaf Project Phase I EM&CP (Filed Oct. 19, 2021)).

and authorize Transco to construct and operate the RTS Project and exercise the rights and privileges granted under the RUAs.

I. BACKGROUND

a. *Transco*

Formed in 2014, Transco is a New York limited liability company³ comprised of affiliates of New York State’s investor-owned utilities.⁴ Transco’s purpose is to plan, develop, and own new high-voltage electric transmission facilities that will enhance the current capabilities of the bulk power system across New York State and to help the State meet its carbon emission requirements.

In 2016, Transco acquired the Commission-approved Transmission Owners Transmission Solutions (“TOTS”) facilities from New York State Electric & Gas Corporation (“NYSEG”); Orange and Rockland Utilities, Inc. (“O&R”); and Consolidated Edison Company of New York, Inc. (“Con Edison”).⁵ In addition, the Commission created a lightened-regulatory regime that Transco—whose rates are regulated by a Federal Energy Regulatory Commission (“FERC”)-approved tariff—would be subject to⁶ and issued an order granting Transco a CPCN related to the TOTS facilities.⁷

³ In satisfaction of 16 NYCRR § 17.2, Transco’s Articles of Organization are already on file with the Commission (see Case 20-E-0551, *supra*, Exhibit 1 to Petition [Filed November 5, 2020]). Additionally, the relevant portion of Transco’s current operating agreement, which governs the management of its internal affairs, states that Transco was established “for the purpose of planning, constructing, owning, operating, maintaining and expanding transmission facilities” is also on file with the Commission (*id.* at Exhibit 2).

⁴ Transco’s members are Consolidated Edison Transmission, LLC; Grid NY LLC; Avangrid Networks New York Transco, LLC; and Central Hudson Electric Transmission, LLC.

⁵ Case 16-E-0012 et al., *Joint Petition of New York State Electric & Gas Corporation and New York Transco LLC for Approval of a Transfer or Lease of Assets*, Order Authorizing Transfers Subject to Conditions and Modifications (Issued Apr. 21, 2016); Case 16-E-0013 et al., *Joint Petition of Orange and Rockland Utilities, Inc., Consolidated Edison Company of New York, Inc., and New York Transco LLC for Approval of a Transfer or Lease of Assets*, Order Authorizing Transfers Subject to Conditions and Modifications (Issued Apr. 21, 2016).

⁶ Case 15-E-0743, *supra*, Lightened Regulatory Regime Order (Issued Apr. 21, 2016, at 2 (stating that “this Order establishes a lightened regulatory regime, subject to conditions, applicable to NY Transco”) (the “Lightened Regulatory Regime Order”).

⁷ Case 15-E-0743, *supra*, Original CPCN Order, at 1-2.

As part of the Lightened Regulatory Regime Order, the Commission imposed the requirements of PSL § 68 on Transco.⁸ In turn, in the Original CPCN Order, the Commission “required [Transco] to demonstrate compliance with PSL §68(1) and to obtain a CPCN in relation to the construction or operation of any additional electric plant.”⁹

Since the RTS Project constitutes “additional electric plant,” Transco respectfully files this Verified Petition to obtain a CPCN to construct and operate the RTS Project.

b. *The RTS Project*

The RTS Project consists of the following primary components:

- 1) Replacement of an existing, 12-mile overhead 115 kilovolt (“kV”) electric transmission line (the “SL Line”) with a new 115 kV electric transmission line, which will be known as the Rock Tavern to Sugarloaf Line (the “RTS Line”). The RTS Line will begin at the existing 115 kV Rock Tavern Substation owned by Central Hudson Gas & Electric Corporation (“Central Hudson”) and located in the Town of New Windsor, Orange County (the “115 kV Rock Tavern Substation”) and terminate at Central Hudson’s existing 115 kV Sugarloaf Switching Station (the “115 kV Sugarloaf Switching Station”) located in the Town of Chester, Orange County.
- 2) Rebuilding the 115 kV Sugarloaf Switching Station as a substation (the “Rebuilt Sugarloaf Substation”) in the Town of Chester, Orange County, which will be owned by Transco, to accept the RTS Line.

⁸ Case 15-E-0743, *supra*, Lightened Regulatory Regime Order, at 2 (“Consistent with prior Commission orders, NY Transco will be subject to PSL § 68, and therefore requires a CPCN”).

⁹ Case 15-E-0743, *supra*, Original CPCN Order, at 7; *see also* Case 20-E-0551, *supra*, NYES CPCN Order, at 14.

- 3) Installation of a new 138 kV tie line (“Line 30”) that will exit the Rebuilt Sugarloaf Substation and terminate at the existing 138 kV Sugarloaf Switching Station owned by O&R and located in the Town of Chester, Orange County.
- 4) Replacement of existing structures from the 115 kV Rock Tavern Substation to the 115 kV Sugarloaf Switching Station.
- 5) Replacement of the first structure outside the Rebuilt Sugarloaf Substation (*i.e.*, Structure 1241)—which supports Central Hudson’s existing 115 kV SD and SJ Lines—to accommodate the Rebuilt Sugarloaf Substation.¹⁰

The RTS Project will be located in the following municipalities: the Towns of Blooming Grove, Chester, Hamptonburgh, and New Windsor in Orange County.¹¹

On November 5, 2020, Transco filed an application with the Commission for a Certificate of Environmental Compatibility and Public Need (“CECPN”) pursuant to PSL Article VII to construct, operate, and maintain the RTS Project.¹² Following a noticed settlement process, Transco filed an unopposed Joint Proposal with the Commission that was signed by Transco, DPS Staff, the Department of Environmental Conservation, the Department of Agriculture and Markets, and Office of Parks, Recreation and Historic Preservation.¹³ Thereafter, on September 9, 2021, the

¹⁰ Please see Exhibit 2 to Transco’s Article VII Application for a more complete description of the RTS Project’s facilities (*see* Case 20-T-0549, *supra*, Application of New York Transco LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the New York Public Service Law to Construct, Operate, and Maintain a New, Single-Circuit 12-mile Overhead 115 kV Electric Transmission Line and Related Facilities In the Towns of New Windsor, Hamptonburgh, Blooming Grove, and Chester in Orange County [Filed Nov. 5, 2020] [the “RTS Application”]).

¹¹ The real property necessary to construct and operate the RTS Project is currently used and/or controlled by Central Hudson and O&R. As a result, and at the appropriate time, Central Hudson and O&R will secure the Commission’s permission to transfer, in full or in part, their respective real property interests to Transco.

¹² Case 20-T-0549, *supra*, RTS Application.

¹³ Case 20-T-0549, *supra*, Joint Proposal (Filed June 23, 2021).

Commission issued an order approving the Joint Proposal and granting Transco a CECPN to construct, operate, and maintain the RTS Project.¹⁴

c. Summary Of The Declaration Of Need For And Selection Of The RTS Project

In 2015, after considering proposals to increase transfer capability across two major electrical interfaces known as “Central East” and “UPNY/SENY,” the Commission determined that there was a transmission need “driven by Public Policy Requirements for new 345 kV major electric transmission facilities to cross the Central East and UPNY/SENY interfaces to provide additional transmission capacity to move power from upstate to downstate” (the “AC Transmission PPTN”).¹⁵ In declaring the AC Transmission PPTN, the Commission divided the AC Transmission PPTN into two segments—Segment A (in the Central East interface) and Segment B (in the UPNY/SENY interface).¹⁶

In turn, and consistent with FERC Order 1000, the New York Independent System Operator, Inc. (“NYISO”) issued a solicitation for solutions to satisfy both segments of the AC Transmission PPTN. After nearly three years of comprehensive and extensive comparative evaluations, on April 8, 2019, the NYISO Board of Directors announced its selection of North American Transmission (now LS Power Grid New York, LLC and LS Power Grid New York Corporation, I, together “LS Power”) and the New York Power Authority’s (“NYPA) double-circuit project (T027) project to satisfy the Segment A portion of the AC Transmission PPTN and Transco’s and National Grid’s New York Energy Solution Project (T019) (the “NYES Project”) to satisfy the Segment B portion of the AC Transmission PPTN. Since then, LS Power/NYPA and

¹⁴ Case 20-T-0549, *supra*, Order Granting Certificate of Environmental Compatibility and Public Need (Issued Sept. 9, 2021) (the “RTS CECPN Order”).

¹⁵ Case 12-T-0502, *Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades*, Order Finding Transmission Needs Driven by Public Policy Requirements (Issued Dec. 17, 2015), at 2 (the “PPTN Order”).

¹⁶ *See generally id.* at 45-46, 61 and Appendix A.

Transco have secured a CECPN to construct, operate, and maintain their respective AC Transmission PPTN project from the Commission,¹⁷ and both projects are under construction and must be operational by the end of 2023.¹⁸

As relevant to the Verified Petition, prior to declaring the AC Transmission PPTN and while studying the various proposals submitted to the Commission, Department of Public Service (“DPS”) Staff requested that the NYISO conduct a power flow analysis of the then-proposed solutions.¹⁹ During that analysis, the NYISO determined that, if constructed, all but one of the proposed solutions would trigger a contingency on the existing double circuit 69 kV lines from the Shoemaker Substation to the Sugarloaf Substation in Orange County and that this contingency would need to be resolved for any of the solutions to produce their maximum positive benefit (the “S2S Project”).²⁰ Similarly, the NYISO found a need for upgrades to the Rock Tavern Substation, also in Orange County, so that it could handle the higher line currents that would result from the upgrade projects in the Central East and UPNY/SENY interfaces (these upgrades, together with the S2S Project, are collectively referred to as the “Segment B Additions”).²¹

In turn, the Commission declared that the transmission solution selected to satisfy Segment B of the AC Transmission PPTN must “incorporate certain specified add-ons that would be

¹⁷ Case 19-T-0549, *Application of LS Power Grid New York, LLC, LS Power Grid New York Corporation I, and the New York Power Authority for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII for Edic/Marcy to New Scotland; Princetown to Rotterdam Project*, Order Adopting Joint Proposal (Issued Jan. 21, 2021); Case 19-T-0684, *Application of New York Transco LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the New York Public Service Law to Construct, Operate, and Maintain a New, Double-Circuit 54.5-Mile 345/115 Kilovolt Electric Transmission Line and Related Facilities Located in the Town of Schodack, Rensselaer County; the Towns of Stuyvesant, Stockport, Ghent, Claverack, Livingston, Gallatin, and Clermont in Columbia County; and the Towns of Milan, Clinton, and Pleasant Valley in Dutchess County*, Order Adopting Joint Proposal (Issued Feb. 11, 2021).

¹⁸ See Case 19-T-0684, *supra*, Order Adopting Joint Proposal (Issued Feb. 11, 2021), at 54 (“The Applicant states that it has executed a development agreement with NYISO with a required in-service date of December 2023.”).

¹⁹ Case 12-T-0502, *supra*, PPTN Order, at 61.

²⁰ *Id.* This double-circuit 69 kV facility includes Lines 24 and 25, and the contingency was identified on both lines.

²¹ *Id.*

constructed” (*i.e.*, the Segment B Additions) in order to allow both AC Transmission PPTN solutions to operate at full capacity.²² Therefore, as the developer selected to satisfy the Segment B portion of the AC Transmission PPTN, Transco incorporated the Commission-defined Segment B Additions into its NYISO interconnection request for the NYES Project.

Since that time, and after extensive internal studies and evaluation, Transco concluded that the RTS Project addresses the contingency identified by the NYISO during the AC transmission proceeding at a substantially lower cost and with fewer impacts than the S2S Project.²³ In turn, Transco submitted the RTS Project to the NYISO for a determination that the RTS Project represents a non-material change from the S2S Project as included in the NYES Project’s interconnection application. The NYISO presented its conclusion that the RTS Project addresses the Commission-identified contingency on the Shoemaker to Sugarloaf line and constitutes a non-material change for interconnection purposes at the Transmission Planning Advisory Subcommittee Meeting on August 7, 2020.

More recently, Transco applied for and secured a CECPN from the Commission to construct, operate, and maintain the RTS Project.²⁴

II. COMMUNICATIONS

The following persons should be included on the official service list in this proceeding, and all communications concerning this filing should be addressed to them:

²² *Id.* at Appendix B.

²³ See Case 20-T-0549, *supra*, Exhibit 3 (Filed Nov. 5, 2020), at 3-5.

²⁴ See Case 20-T-0549, *supra*, RTS CECPN Order.

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III. THE COMMISSION SHOULD GRANT TRANSCO'S REQUESTED CPCN BECAUSE THE RTS PROJECT IS CONVENIENT AND NECESSARY

a. Legal Standard

PSL § 68 (1) prohibits “electric corporations” such as Transco from constructing any “electric plant” and from exercising any rights or privileges under any franchise without the Commission’s prior approval. The Commission has long and repeatedly held that:

[O]ur issuance of a PSL Article VII Certificate supplants the requirement for construction approval under PSL §68, but not the requirements for our approval of its corporate formation and the exercise of any municipal right, privilege or franchise.²⁵

Here, although the Commission’s issuance of a CECPN to Transco to construct, operate, and maintain the RTS Project satisfies the first PSL § 68 requirement, Transco seeks a CPCN to construct and operate the RTS Project consistent with the Commission’s prior directive to do so²⁶ and to secure the Commission’s permission under second PSL § 68 requirement to exercise its rights and privileges under the RUAs (*i.e.*, franchise agreements).

As the Commission explained in the Original CPCN Order, among other orders, the Commission is

²⁵ Case 10-E-0339, *Petition of Hudson Transmission Partners, LLC for an Original Certificate of Public Convenience and Necessity and for an Order Providing for Lightened Regulation*, Order Providing For Lightened Rate Making Regulation (Issued April 14, 2011), slip op. at 6.

²⁶ Case 15-E-0743, *supra*, Original CPCN Order, at 7.

authorized to grant a CPCN to an electric corporation pursuant to PSL §68(1), whenever it shall, after due hearing, determine that the construction or right, privilege or franchise sought to be approved is convenient and necessary for the public service, upon consideration of the economic feasibility of the corporation, the corporation's ability to finance improvements of ... electric plant, render safe, adequate and reliable service, and provide just and reasonable rates, and whether issuance of a certificate is in the public interest.²⁷

In addition, a “petitioner must certify that it is authorized to provide electric service and verify that it has obtained the required consents from the proper municipal authorities.”²⁸

In applying these and other requirements of PSL Article 4 to projects developed under lightened regulation, however, the Commission has recognized that “[a]uthority over these matters has been exercised flexibly, at our discretion, with the extent of scrutiny afforded a particular transaction reduced to the level the public interest requires.”²⁹ Because Transco is a lightly regulated entity, this standard of review applies here.³⁰

As required by 16 NYCRR § 17.3, this Verified Petition sets forth in detail Transco's compliance with applicable statutory (*i.e.*, PSL § 68 [1]) and regulatory (*i.e.*, 16 NYCRR Parts 17 and 21) requirements below. Accordingly, Transco's request for a CPCN satisfies all applicable portions of PSL § 68 (1) and the DPS's regulations. Further, because the RTS Project is convenient and necessary for the public service, the Commission should grant Transco a CPCN.

²⁷ Case 15-E-0743, *supra*, Original CPCN Order, at 5.

²⁸ *Id.*

²⁹ Case 98-E-1670, *Carr Street Generating Station, L.P. – Petition for an Original Certificate of Public Convenience and Necessity and For a Declaratory Ruling On Regulatory Regime*, Order Providing For Lightened Regulation (Issued April 23, 1999), at 7.

³⁰ *See* Case 15-E-0743, *supra*, Lightened Regulatory Regime Order, at 2 (establishing a lightened regulatory regime for Transco); *see also* Case 20-E-0551, *supra*, NYES CPCN Order, at 14 (confirming that the lightened regulatory regime established for Transco in 2016 extends to the NYES Project). Transco requests that the Commission confirm that Transco's lightened regulatory regime established in 2016 and confirmed in 2020 similarly extends to the RTS Project.

b. *General Matters (16 NYCRR Part 17)*

As required by 16 NYCRR § 17.1, a verification page, executed by Transco’s President, is included below. Additionally, as described above, Transco’s formation documents are already on file with the Commission in satisfaction of 16 NYCRR § 17.2.³¹

c. *Requirements For All Petitions (16 NYCRR § 21.2)*

In conformance with 16 NYCRR § 21.2 (a), Transco states that the following investor-owned utilities (“IOUs”) operate and maintain electric transmission facilities within the territory—or right-of-way (“ROW”)—in which the RTS Project will be located: Central Hudson and O&R. Neither Transco nor the RTS Project will provide retail transmission or retail electric service as the IOUs do within the RTS Project’s territory. Instead, electricity transmitted by the RTS Project will flow exclusively to wholesale markets throughout New York State and neighboring control areas as the RTS Project serves as an important element of the New York State transmission system operated by the NYISO under the provisions of its FERC-approved Open Access Transmission Tariff (the “OATT”).³² Accordingly, the RTS Project cannot be used to bypass any such services provided by the IOUs to any of its existing or future wholesale customers or to any retail customers of the IOUs.

In accordance with 16 NYCRR § 21.2 (b), certified copies of the RUAs with the Towns of Blooming Grove, Chester, Hamptonburgh, and New Windsor are attached as Exhibit 1.

Transco has previously received authority from the Commission to exercise powers under other franchise or municipal consents within the meaning of 16 NYCRR § 21.2 (c) for the NYES Project.³³ In addition, the Commission issued Transco a CPCN for the construction and operation

³¹ See *supra*, n 3.

³² NYISO, OATT, Attachment DD, § 36, Attachment DD.

of the TOTS facilities.³⁴ The verifications of Transco’s President and Secretary required by 16 NYCRR §§ 17.1 and 21.2 (b) and PSL § 68.1 are provided below.

In conformance with 16 NYCRR § 21.2 (d), Transco states that it has not yet received any permit, license, or authority from any federal authority relative to the RTS Project. However, by order dated November 16, 2017, FERC approved a settlement related to Transco’s recovery of its prudently incurred costs and request for certain incentive rate treatments for its investment in the RTS Project.³⁵ In addition, Transco described the federal agencies involved with the RTS Project in Exhibit 8 to the PSL Article VII Application filed in Case 20-T-0549.³⁶ If any federal permits, licenses, or authorizations for the Project are received while the Verified Petition is pending, Transco will supplement it as required by 16 NYCRR § 21.2 (d).³⁷

d. *Additional Information Required To Be Presented*

i. The Territory Within Which Transco Proposes To Exercise Authority (16 NYCRR § 21.3 [a])

16 NYCRR § 21.3 (a) requires Transco to describe and give the population of the territory within which it proposes to exercise the requested CPCN and the dates when construction will begin and service will be provided. The RTS Project will be located in an existing overhead electric transmission corridor and/or on adjacent land already owned or controlled by certain IOUs in the Towns of Blooming Grove, Chester, Hamptonburgh, and New Windsor in Orange County. The population of the traversed municipalities are provided in Table 6-1 of Exhibit 6 to the RTS

³⁴ Case 15-E-0743, *supra*, Original CPCN Order.

³⁵ Letter Order Approving Applicants’ 8/21/17 Filing of an Offer of Settlement; Docket No. ER15-572-000, et al., 161 FERC ¶ 61,161 (Filed Nov. 16, 2017), at 2, 3 (the “FERC Approval”); *see also*, *New York Independent System Operator, Inc., et al.*, 151 FERC ¶ 61,004 (April 2, 2015) (*Order on Transmission Rate, Return on Equity, Cost Allocation, and Transmission Incentives*). In addition, Transco has received “no hazard” determination for the RTS Project’s poles from the Federal Aviation Administration.

³⁶ Case 20-T-0549, *supra*, Exhibit 8, Other Pending Filings (Filed Nov. 5, 2020).

³⁷ 16 NYCRR § 21.2 (e) is not relevant to this Verified Petition.

Application.³⁸ Construction of the RTS Project is expected to commence in early 2022 and conclude by December 2023. The RTS Project will be energized in full and provide service no later than December 31, 2023, consistent with the terms of the Development Agreement between Transco and the NYISO.³⁹ Following energization, the RTS Project will serve as a key element of the New York State transmission system by allowing both the Segment A and Segment B solutions to the AC Transmission PPTN to operate at their full capacity.

ii. The Plant And System To Be Constructed (16 NYCRR § 21.3 [b])

16 NYCRR § 21.3 (b) requires Transco to describe the project and provide the estimated cost thereof. The RTS Project is described above⁴⁰ and in more detail in the RTS Application.⁴¹ In addition, the estimated cost of the RTS Project is included in Exhibit 9 to the RTS Application.⁴²

iii. Manner Of Financing (16 NYCRR § 22.3 [c])

16 NYCRR § 22.3 (c) requires Transco to describe the manner in which the cost of the RTS Project will be financed. On September 19, 2019, the Commission issued an order pursuant to PSL § 69 authorizing Transco to secure financing in an amount up to \$400 million toward the development and construction of its Segment B project.⁴³ This approval allows Transco to finance

³⁸ Case 20-T-0549, *supra*, Exhibit 6, Economic Impacts (Filed Nov. 5, 2020).

³⁹ See FERC Docket No. ER20-865-000, *New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii): 205 re: Development Agreement among the NYISO, NMPC & NY Transco submitted on 1/23/2020*, Letter order accepting New York Independent System Operator, Inc.'s 01/23/2020 filing of an executed nonconforming development agreement among Niagara Mohawk Power Corporation etc. under ER20-865 (Issued March 10, 2020).

⁴⁰ See *supra*, Point I (b).

⁴¹ See e.g. Case 20-T-0549, *supra*, Exhibit 2, Location of Facilities (Filed Nov. 5, 2020).

⁴² *Id.* at Exhibit 9, Cost of Proposed Facilities.

⁴³ Case 19-E-0352, *Petition of New York Transco LLC for an Order Approving Financing*, Order Approving Financing and Making Findings (Issued Sep. 19, 2019).

both the NYES and RTS Projects' development⁴⁴ and construction consistent with the capitalization requirements of its FERC-approved settlement agreement.⁴⁵

iv. Rates And Estimated Revenues And Expenses (16 NYCRR §§ 21.3 [d] and [e])

PSL § 68 (1) mandates that the Commission consider, and Transco provide, evidence of Transco's ability to provide just and reasonable rates, and 16 NYCRR § 21.3 (d) requires the specification of the rates to be charged for the classes of service to be rendered, while 16 NYCRR § 21.3 (e) requires Transco to provide information concerning the RTS Project's revenues and expenses. Transco respectfully submits that these requirements are inapplicable here given that the rates for service provided by the RTS Project have been established by FERC under the Federal Power Act. FERC's rate-setting process ensures that rates applicable to the transmission of electric energy in interstate commerce are just and reasonable.⁴⁶ In accordance with the requirements of Attachment Y of the NYISO OATT, Transco proposed and FERC approved rates for recovery of Transco's prudently incurred costs for the development of the RTS Project in FERC Docket No. ER15-572-000, et al.⁴⁷ Accordingly, there is no need in this proceeding for the Commission to determine either the RTS Project's rates to be charged or the estimated revenues and expenses.

v. Public Interest Considerations (16 NYCRR §§ 21.3 [f] and [g])

16 NYCRR § 21.3 (f) requires Transco to demonstrate the facts that entitle it to exercise the CPCN petitioned for, including evidence of the economic feasibility of the enterprise and proof: (i) of its ability to finance the RTS Project, (ii) that it can render adequate service, and (iii) that the RTS Project is in the public interest. Building upon the third proviso of Section 21.3 (f),

⁴⁴ The Commission explicitly defined the Segment B portion of the AC Transmission PPTN to include both the "Segment B" and "Segment B Additions" projects, which includes the RTS Project (*see* Case 12-T-0502, *supra*, PPTN Order, at Appendix A).

⁴⁵ *See* FERC Docket No. ER15-572-006, *supra*, Offer of Settlement (Filed Aug. 21, 2017); *see also* FERC Approval.

⁴⁶ *See* 16 USC § 824 d (2019).

⁴⁷ *See supra*, n 36.

16 NYCRR § 21.3 (g) requires Transco to establish the public need for the RTS Project since similar services (*i.e.*, electric transmission facilities) are already located along the RTS Project's ROW. Each of these issues is addressed below.

1. Economic Feasibility

The RTS Project's economic feasibility is established by the fact that it is a part of the Segment B Additions identified by the Commission as being necessary to fully satisfy the AC Transmission PPTN.⁴⁸ In addition, further evidence of the RTS Project's feasibility is provided by the fact that it will qualify for cost recovery under Attachment Y and Schedule 13 of the NYISO OATT and, therefore, has an assured source of funding for the recovery of all prudently-incurred project costs.⁴⁹

2. Transco's Ability To Finance The Project

As outlined above, Transco has already secured the necessary Commission approvals to finance the debt needed to construct the RTS Project.⁵⁰ Consistent with the RTS Project's FERC-approved settlement, the remainder of the RTS Project will be financed with equity.

3. Provision Of Safe, Adequate, And Reliable Service

In addition to the requirement of 16 NYCRR § 21.3 (f), PSL § 68 (1) also requires the Commission to consider Transco's ability to render safe, adequate, and reliable service. This requirement is clearly met here as Transco and its affiliates are well-qualified and experienced developers and operators of wholesale transmission facilities. As outlined above, Transco has been safely, adequately, and reliably operating the TOTS facilities since early 2016 when it acquired those assets from certain IOUs. Moreover, during the AC Transmission PPTN process, the NYISO

⁴⁸ See *supra*, Point I (d).

⁴⁹ See also *supra*, Point III (d) (iv) (for a discussion of Transco's FERC-approved rate).

⁵⁰ See *supra*, Point III (d) (iii).

found Transco to be a qualified transmission developer, constructor, and operator in accordance with section 31.4.4.1 of the NYISO OATT. Under that rule, the NYISO must make a determination as to whether any developer seeking to participate in the PPTN process is qualified to do so, based on the following criteria:

- The technical and engineering qualifications and experience of the Developer relevant to the development, construction, operation, and maintenance of a transmission facility, including evidence of the Developer’s demonstrated capability to adhere to standardized construction, maintenance, and operating practices and to contract with third parties to develop, construct, maintain, and/or operate transmission facilities;
- The current and expected capabilities of the Developer to develop and construct a transmission facility and to operate and maintain it for the life of the facility; and
- The Developer’s current and expected capability to finance, or its experience in arranging financing for, transmission facilities.⁵¹

More recently, the Commission determined that Transco could render safe, adequate, and reliable service for Transco’s related NYES Project.⁵²

Further assurances of the RTS Project’s safe, adequate, and reliable operation are provided by the following facts. Transco will develop the RTS Project under the NYISO’s supervision, and the RTS Project will be placed under NYISO’s operational control once it is in service. In addition, the RTS Project will comply with all applicable requirements of the National Electric Safety Code and the requirements of the North America Electric Reliability Corporation; the Northeast Power Coordinating Council, Inc.; and the New York State Reliability Council.

4. Public Interest/Need

In addition to the requirement found in 16 NYCRR § 21.3 (f), PSL § 68 (1) mandates that the Commission consider whether issuance of a CPCN is in the public interest. Moreover, 16 NYCRR § 21.3 (g) requires Transco to provide evidence that there is a public need for the RTS

⁵¹ NYISO, OATT, at § 31.4.4.1.1.

⁵² Case 20-E-0551, *supra*, NYES CPCN Order, at 12 (stating “the record demonstrates that Transco will be: . . . (3) technically capable of rendering safe, adequate, and reliable service”).

Project. The public interest and need for the RTS Project are both clearly established. More specifically, as outlined above and in further detail in Exhibit E-4 to the RTS Application, the Commission required the developer of the Segment B component of the AC Transmission PPTN (*i.e.*, Transco as the NYISO-selected developer of the NYES Project) to incorporate the Segment B Additions into its solution, and the RTS Project is one of the two Segment B Additions projects. Moreover, the Commission found that, when operated at full capacity as a result of the RTS Project, the NYES Project will:

- Reduce transmission congestion so that large amounts of power can be transmitted to regions of New York where it is most needed;
- Reduce production costs through congestion relief;
- Reduce capacity resource costs;
- Improve market competition and liquidity; to enhance system reliability, flexibility, and efficiency;
- Improve preparedness for and mitigation of impacts of generator retirements;
- Enhance resiliency/storm hardening;
- Avoid refurbishment costs of aging transmission;
- Take better advantage of existing fuel diversity;
- Increase diversity in supply, including additional renewable resources;
- Promote job growth and the development of new efficient generation resources in Upstate New York;
- Reduce environmental and health impacts through reductions in less efficient electric generation;
- Reduce costs of meeting renewable resource standards;
- Increase tax receipts from increased infrastructure investment;
- Enhance planning and operational flexibility; and
- Obtain synergies with other future transmission projects.⁵³

As such, the RTS Project, and approval of the exercise of Transco's rights, privileges, and franchises as an electric corporation, including the rights granted in the RUAs described above, is plainly warranted by the public interest and is in the public need.

⁵³ Case 12-T-0502, *supra*, PPTN Order, at 66-67.

IV. MOTION FOR AN EXPEDITED PROCEEDING

Pursuant to 16 NYCRR § 21.10 (a), Transco respectfully requests that the public hearing required by PSL § 68 prior to the issuance, modification, or renewal of a CPCN be held before the Commission based on the Verified Petition, inclusive of the exhibits attached thereto, without oral testimony. Such relief is proper here given that approval of the CPCN in this proceeding is in the public interest.⁵⁴

Within 14 days of filing the Verified Petition, Transco will publish in a newspaper of general circulation in each municipality the RTS Project will cross a notice that: (1) briefly describes the subject matter of the Verified Petition; (2) states that Transco has moved that the public hearing required by the PSL be held before the Commission on the basis of the Verified Petition and such exhibits, prepared testimony, and any other information as may have been filed by any party or Staff counsel, and that oral testimony not be taken; and (3) states that any person opposed to the granting of the CPCN should, within 10 days of the date of the publication of the notice, notify in writing the Secretary of the Public Service Commission at Agency Building 3, Empire State Plaza, Albany, NY 12223, of the reasons for the opposition.⁵⁵

Finally, since Transco's motion for an expedited proceeding is included within the Verified Petition, and it was properly served on each person or municipality entitled to service of a copy of the same (*i.e.*, each municipality traversed by the RTS Project), the service requirement in 16 NYCRR § 21.10 (a) (2) has been satisfied. Thus, if no written objection outlining a substantive reason opposing the motion is received within 10 days of the date of publication of the Newspaper Notice, the Commission may, consistent with the governing regulation and its own precedent,

⁵⁴ 16 NYCRR § 21.10 (a) (1).

⁵⁵ 16 NYCRR § 21.10 (a) (3) (the "Newspaper Notice").

grant the motion and hold the hearing required by PSL § 68 at the time it considers the Verified Petition.⁵⁶ In order to allow Transco to begin construction and operation of the RTS Project without delay to meet the in-service date, Transco respectfully requests that the Commission issue an order deciding this Verified Petition at the January 2022 session, or at the same (or an earlier) session that the Commission issues an order addressing Transco’s pending Phase I EM&CP for the RTS Project.⁵⁷

V. ENVIRONMENTAL REVIEW

Before issuing the CECPN for the RTS Project, the Commission undertook a comprehensive review of the RTS Project’s environmental impacts. Thus, in the RTS Article VII proceeding, the Commission addressed the RTS Project’s potential environmental impacts and provided protective measures tailored to avoid, minimize, and mitigate those impacts.⁵⁸ As a result, and consistent with Commission precedent, there is no need to conduct a separate environmental impact analysis in connection with the relief requested in the Verified Petition.⁵⁹

⁵⁶ 16 NYCRR § 21.10 (b); *see e.g.* Case 14-E-0372, *Binghamton BOP LLC-Petition for an Original Certificate of Public Convenience and Necessity and Establishing a Lightened Regulatory Regime*, Order Granting a Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (Issued Dec. 11, 2014); Case 13-M-0028, *Petition of RED-Rochester, LLC and Eastman Kodak Company for Approval to Transfer Regulated Utility Assets at Eastman Kodak Park, Approval to Transfer Certificates of Public Convenience and Necessity, Providing for Continued Lightened and Incidental Regulation, Approval of Financing and Authorization, to the Extent Necessary, for Submetering*, Order Approving Transfer Subject to Conditions, Providing for Lightened Ratemaking Regulation, and Making Other Findings (Issued May 30, 2013); Case 11-E-0593, *Petition of Cricket Valley Energy Center, LLC for an Original Certificate of Public Convenience and Necessity and for an Order Providing for Lightened Regulation*, Order Granting Certificate of Public Convenience and Necessity and Establishing Lightened Ratemaking Regulation (Issued Feb. 14, 2013).

⁵⁷ Case 20-T-0549, *supra*, RTS Phase I EM&CP.

⁵⁸ Case 20-T-0549, *supra*, Order Granting Certificate of Environmental Compatibility and Public Need (Issued Sept. 9, 2021), at Section III.B.

⁵⁹ *See e.g.* Case 20-E-0551, *supra*, NYES CPCN Order, at 12 (stating that “[t]he Article VII proceeding addresses the potential environmental impacts of the [NYES] Project and provides protective measures tailored to avoid, minimize, and mitigate those impacts” such that “there is no need to conduct a separate environmental impact analysis in connection with the requests for relief in this proceeding”); Case 10-E-0077, *Petition of Bayonne Energy Center, LLC for an Original Certificate of Public Convenience and Necessity for Permission and Approval to Operate as an Electric Corporation within the State of New York*, Order Granting Certificate Of Public Convenience And Necessity (Issued April 6, 2010), at 3-4 (“Accordingly, a separate environmental review under SEQRA is not warranted in connection with Bayonne’s petition for a CPCN”).

VI. CONCLUSION

In sum, Transco respectfully requests a CPCN to: (1) construct and operate the RTS Project, and (2) exercise the rights and privileges granted under the four RUAs. For the reasons set forth above and because the RTS Project is convenient and necessary for the public service, the Commission should grant the requested CPCN and authorize Transco to construct and operate the RTS Project and exercise its rights and privileges under the RUAs.

In order to allow Transco to begin construction and operation of the RTS Project without delay and to meet the in-service date, Transco respectfully requests that the Commission issue an order deciding this Verified Petition at the January 2022 session, or the same (or an earlier) session that the Commission issues an order addressing Transco's pending Phase I EM&CP for the RTS Project.

HARRIS BEACH PLLC

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Attorneys for New York Transco LLC

Dated: November 9, 2021
Albany, New York

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Verified Petition Of New York Transco LLC For An Expedited
Order Granting A Certificate Of Public Convenience And
Necessity Pursuant To Section 68 Of The Public Service Law

Case 21-E-_____

VERIFICATION

STATE OF NEW YORK

COUNTY OF Westchester

Victor Mullin, being duly sworn, deposes and states as follows:

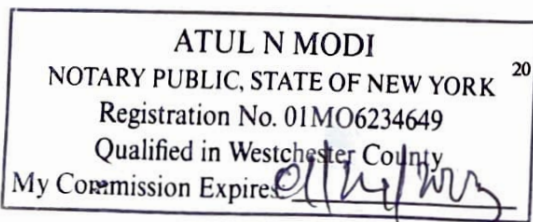
1. I am the President of New York Transco LLC, the petitioner in this proceeding.
2. I am authorized to sign this verification on behalf of New York Transco LLC.
3. I have reviewed the foregoing Verified Petition, and the statements of fact contained therein pertaining to New York Transco LLC, which are true and correct to the best of my knowledge, information, and belief.
4. Transco, an entity authorized to provide electric service, has obtained all of the municipal approvals required for the construction and operation of the Rock Tavern to Sugarloaf Project from the proper municipal authorities, as detailed in the forgoing Verified Petition.



Victor Mullin

Sworn to and subscribed before me
this 9th day of November 2021.

Notary Public



STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Verified Petition Of New York Transco LLC For An Expedited
Order Granting A Certificate Of Public Convenience And
Necessity Pursuant To Section 68 Of The Public Service Law

Case 21-E-_____

VERIFICATION

NEW YORK ^{CAT}
STATE OF MASSACHUSETTS)
COUNTY OF SUFFOLK) ss:
)

Kathleen Carrigan, being duly sworn, deposes and states as follows:

1. I am the Vice President General Counsel and Regulatory Affairs and Secretary of New York Transco LLC, the Verified Petitioner in this proceeding.
2. I am authorized to sign this verification on behalf of New York Transco LLC.
3. Transco, an entity authorized to provide electric service, has obtained all of the municipal approvals required for the construction and operation of the Rock Tavern to Sugarloaf Project from the proper municipal authorities, as detailed in the forgoing Verified Petition.


Kathleen Carrigan

Sworn to and subscribed before me
this 9th day of November 2021.

Candace A. Tarana
Notary Public

CANDACE A TARANA
Notary Public - State of New York
No. 01TA6419848
Qualified in Monroe County
My Commission Expires July 19, 20 25