

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on December 16, 2021

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
Diane X. Burman
James S. Alesi
Tracey A. Edwards
John B. Howard
David J. Valesky
John B. Maggiore

CASE 21-E-0261 - Petition of South Fork Wind, 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 PROVIDING FOR LIGHTENED REGULATION

(Issued and Effective December 20, 2021)

BY THE COMMISSION:

INTRODUCTION

In a petition filed on May 3, 2021, South Fork Wind, LLC (South Fork Wind or SFW) requested certain approvals related to their construction, ownership, and operation of a 7.6-mile, 138 kilovolt (kV) alternating current (AC) electric cable, connecting the South Fork Wind Farm being developed in federal ocean waters to the mainland electric grid in East Hampton, New York (the Project). Specifically, South Fork Wind requests: 1) the issuance of a Certificate of Public Convenience and Necessity (CPCN) pursuant to Public Service Law (PSL) §68 to allow the exercise of rights and privileges granted under certain municipal road crossing agreements; and 2) authorization

of a lightened regulatory regime under the PSL, similar to that afforded by the Public Service Commission (Commission) to other entities engaged in competitive wholesale markets (the Petition). By this Order, the Commission grants a CPCN pursuant to PSL §68 and establishes a lightened regulatory regime applicable to South Fork Wind.

BACKGROUND

On March 18, 2021, the Commission granted a Certificate of Environmental Compatibility and Public Need pursuant to PSL Article VII (Article VII Certificate), authorizing construction of the Project, subject to conditions.¹ The Project consists of three components within the State of New York's territorial boundaries: the South Fork Export Cable - New York State (SFEC-NYS), the South Fork Export Cable - Onshore (SFEC-Onshore), and the South Fork Export Cable - Interconnection Facility (SFEC-Interconnection Facility).

The SFEC-NYS is the submarine segment of the export cable buried beneath the seabed within state territorial waters from the boundary of New York State waters (three nautical miles offshore) up to, and inclusive of, a sea-to-shore transition vault located in the Town of East Hampton on Long Island, Suffolk County, New York. The SFEC-NYS corridor crosses into New York State territorial waters south of Wainscott Beach, East Hampton, New York at a point three nautical miles offshore in the North Atlantic Ocean. The SFEC-NYS corridor is approximately 3.5 miles (3.1 nautical miles) long from the New York State territorial waters boundary to the point where the sea-to-shore transition terminates.

¹ Case 18-T-0604, Deepwater Wind South Fork, LLC - Electric Transmission Line, Order Adopting Joint Proposal (issued March 18, 2021) (Article VII Order).

The SFEC-NYS also includes the sea-to-shore transition where the SFEC-NYS will be connected to the SFEC-Onshore. The sea-to-shore transition will include an onshore transition vault where the offshore and onshore cables will be spliced together. The vault will be located underground within and under the Beach Lane public road right-of-way. The sea-to-shore transition corridor starts at the offshore exit point of the horizontal directional drilling (approximately 1,800 feet offshore from Mean High Water Line in 25 to 40 feet of water) and terminates at the onshore transition vault located at the south end of Beach Lane within and under the public road right-of-way.

The SFEC-Onshore is the terrestrial underground segment of the export cable from the sea-to-shore transition vault to the SFEC-Interconnection Facility where the SFEC will interconnect with the Long Island Power Authority (LIPA) electric transmission and distribution system in East Hampton. The entire SFEC-Onshore corridor is approximately 4.1 miles long. The SFEC-Onshore begins at the sea-to-shore transition vault within the Beach Lane public road right-of-way and continues to the northwest for approximately 0.7 miles until the intersection with Wainscott Main Street. From the intersection of Beach Lane and Wainscott Main Street, the SFEC-Onshore turns northeast along Wainscott Main Street for 0.06 miles and subsequently northwest on Sayre's Path for 0.04 miles. The SFEC-Onshore then turns generally north as it travels along Wainscott Stone Road for approximately 0.2 miles. The SFEC-Onshore turns on to Wainscott Northwest Road and travels approximately 1.1 miles, generally northwest past Montauk Highway/State Route 27 to the Long Island Rail Road (LIRR). From there, the SFEC-Onshore continues in a generally east direction within the LIRR right-of-way south of the railroad tracks, past Daniels Hole Road, Stephen Hands Path, and

Buckskill Road. The SFEC-Onshore extends along the southern portion of the LIRR right-of-way for approximately 2.0 miles, at which point it reaches the location of the SFEC-Interconnection Facility.

In addition to the SFEC, SFW is proposing to construct, operate, and maintain the SFEC-Interconnection Facility. The SFEC-Interconnection Facility is a new onshore facility located on Cove Hollow Road in East Hampton, consisting of a transformer and a 69 kV interconnection cable connecting to the 69 kV bus in the existing LIPA East Hampton Substation, and other equipment. The SFEC-Interconnection Facility is located adjacent to the existing East Hampton Substation, on the same parcel, in the East Hampton's Commercial Industrial zoning district. The property is owned by National Grid Generation, LLC, and the existing facilities are operated by other utilities (e.g., LIPA). The SFEC-Interconnection Facility consists of an approximately 2.7-acre work area adjacent to the existing East Hampton Substation and a corridor for the 69 kV interconnection cable. Within the 2.7-acre work area, the SFEC-Interconnection Facility will be surrounded by a maintenance road and an exterior perimeter wall. The footprint of the SFEC-Interconnection Facility is anticipated to be approximately 230 feet by 360 feet, including the road and wall.

THE PETITION

As noted in the Petition, South Fork Wind is described as a Delaware limited liability company formed for the purposes of developing and owning the Project, as well as the offshore wind generation facility that will provide output over the Project. South Fork Wind is a joint venture between subsidiaries of Ørsted and Eversource. As provided in the Petition, Ørsted has completed 28 offshore wind projects with an

aggregate capacity of 7,600 megawatts. Eversource is indicated to have been involved in constructing, financing, owning, maintaining, and decommissioning infrastructure assets in the electric industry, and has invested approximately \$8 billion over the past three years on new energy infrastructure in New England.

South Fork Wind acknowledges that the Project will be used for the transmission of electricity in New York State, and therefore the transmission line will constitute "electric plant" as defined by PSL §2(12), making South Fork Wind an "electric corporation" under PSL §2(13) subject to the Commission's jurisdiction. Furthermore, while the Project has previously received Article VII approval, SFW acknowledges the requirement to obtain a CPCN.

CPCN

South Fork Wind seeks a CPCN under PSL §68(1) to exercise the rights and privileges granted under certain municipal consents, which were provided in the form of an Easement Agreement with the Town of East Hampton, a Land Lease Agreement with the Trustees for the Freeholders and Commonalty of the Town of East Hampton, as well as a Road Use and Crossing Agreement with the Town of East Hampton. Copies of these documents were provided, as well as a certification by Kenneth Bowes, having been authorized to act as the President and Secretary of SFW, indicating that all permits have been received.

South Fork Wind describes South Fork Wind, LLC as a limited liability company organized under the laws of Delaware and registered to do business in New York as a foreign limited liability company, with its local office in Suffolk County, New York. SFW provided documentation in its Petition as to both the Delaware formation and the New York State registration.

In support of the request for a CPCN, SFW notes that the Commission previously found in the Article VII Order that the need exists for the Project to transmit electricity from the offshore facility to the point of interconnection at the East Hampton substation.² This connection, the Commission found, was necessary to allow SFW to satisfy its obligations under a Power Purchase Agreement (PPA) and to meet the needs of LIPA's ratepayers.³ Furthermore, Commission found that the Project addressed needs identified by LIPA, including meeting renewable energy goals, and that the Project:

will serve the public interest, convenience, and necessity by, among other things, contributing to State energy policy goals in the [Climate Leadership and Community Protection Act (CLCPA)], State Energy Plan, and Clean Energy Standard, diversifying the State's electric generation mix, lowering greenhouse emissions, and assist LIPA in serving customers.⁴

As such, South Fork Wind asserts that the Petition successfully demonstrates that the Project is in the public interest and conforms to State policy.

Based upon the prior receipt of the Article VII Certificate, SFW asserts that the Commission need not provide the construction approval that has been replaced by PSL §130, but instead need only approve the exercise of a franchise.⁵ Under this scope of review, SFW maintains that PSL §68 requires the submission of a certified copy of its organizational charter as well as verified statement of the president and secretary of

² Article VII Order, p. 99.

³ Id.

⁴ Article VII Order, p. 105.

⁵ Case 10-E-0077, Bayonne Energy Center, LLC, Order Granting Certificate of Public Convenience and Necessity (issued April 6, 2010) (Bayonne CPCN Order), p. 4.

the corporation showing receipt of the necessary permits and consents. South Fork Wind asserts that the attached documents satisfy these requirements.

In conformance with 16 NYCRR §17.1, SFW alleges compliance through the above noted certifications and copies of business records from both the New York State Department of State and the Delaware Department of State.

In conformance with 16 NYCRR §21.2(a), South Fork Wind notes that LIPA provides retail electric service in the area covered, but that SFW will not provide retail service and that the electricity transmitted over the Project will be purchased by LIPA pursuant to a PPA.

In conformance with 16 NYCRR §21.2(b), South Fork Wind provides the Easement and Lease and Land Use and Crossing agreement included with the Petition.

In conformance with 16 NYCRR §21.2(c), SFW asserts that it has not received any authority from the Commission to exercise powers under any prior franchise or municipal consent.

In conformance with 16 NYCRR §21.2(d), South Fork Wind states that it has not yet received any permit, license, or authority from any federal authority relative to the Project

In conformance with 16 NYCRR §21.3(a), SFW notes that because it will provide electricity at wholesale, it does not have a territory. Nevertheless, as the Project will run through East Hampton, the population of the Town is roughly 22,000, and the expected construction window is January 2022 through the end of 2023.

Addressing the requirements of 16 NYCRR §21.3(b), South Fork Wind adopts the description and costs referenced in the Article VII application.⁶

⁶ Case 18-T-0604, supra, Article VII Order, p. 11.

Addressing the requirements of 16 NYCRR §21.3(c), SFW expects to finance the Project through balance sheet liquidity or other financing options. To the extent required by law or regulation, SFW affirms that it will seek Commission approval for financing.

Addressing the requirements of 16 NYCRR §21.3(d), South Fork Wind confirms that it will not be providing retail service.

Addressing the requirements of 16 NYCRR §21.3(e), SFW states that estimated revenues are driven by the PPA with LIPA, and because SFW will operate on a merchant basis, any financial risk associated with the Project rests solely with South Fork Wind.

Finally, addressing the requirements of 16 NYCRR §21.3(f) and (g), which necessitates showing the facts upon which the petitioner relies upon for proof that the projects is in the public interest as well as the public need for the proposed services, South Fork Wind again adopts the descriptions set forth in the Article VII application.

As to the question of the ability to construct and operate the facility, SFW claims to have satisfied the statutory considerations, including "the economic feasibility of the corporation, the corporation's ability to finance improvements of a gas plant or 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."⁷ Because the issues associated with the public interest and safe, adequate, and proper service have been addressed in the Article VII Order, SFW asserts that the Commission should instead concentrate here on the economic feasibility of the applicant

⁷ PSL §68(1).

and the ability of SFW to finance the Project. The two underlying entities in this matter behind SFW are subsidiaries of Ørsted and Eversource, each of which are described as stable and diverse energy companies with significant balance sheets. SFW notes that both Ørsted and Eversource are publicly traded companies with market capitalizations in the billions, with investment-grade credit ratings, and have significant experience in the development, financing, and operations of similar projects. As SFW intends to develop, finance, construct, and operate the Project on a merchant basis without cost-of-service rates set by any regulatory entity, SFW claims to operate in a competitive environment such that the Commission need not apply the same regulatory scrutiny that might be necessary for a "monopoly utility." As such, SFW claims that the obligation to show the fiscal ability to perform has been met.

Lightened Regulation

South Fork Wind also seeks lightened regulation as an electric corporation under the PSL. According to SFW, the same lightened regulatory regime that was applied in the Wallkill Order,⁸ and was imposed upon Carr Street Generating Station, L.P.⁹ and AES Easter Enterprises, L.P.,¹⁰ should be applied to South Fork Wind in connection with their construction, operation, and management of the Project. Specifically, South Fork Wind seeks to have the Commission subject SFW to lightened

⁸ Case 91-E-0350, Wallkill Generating Company L.P., Order Establishing Regulatory Regime (issued April 11, 1994) (Wallkill Order).

⁹ Case 98-E-1670, Carr Street Generating Station, L.P., Order Providing for Lightened Regulation (issued April 23, 1999) (Carr Street Order).

¹⁰ Case 99-E-0148, AES Eastern Energy, L.P. and AES Creative Resources, L.P., Order Providing For Lightened Regulation (issued April 23, 1999) (AES Eastern Order).

regulation in the same manner as it has for entities operating in wholesale competitive markets, and thus requests that the Commission apply the relevant sections of Articles 1 and 4 to its operation, with the scrutiny and filing requirements consistent with Commission precedent,¹¹ and that the Commission not impose Article 6 requirements, except for PSL §119-b.

PUBLIC NOTICE AND HEARING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking (SAPA Notice) concerning the request for lightened ratemaking regulatory treatment was published in the State Register on June 2, 2021 [SAPA No. 21-E-0261SP1]. The time for submission of comments pursuant to the Notice expired on August 2, 2021. No comments were received in response to the SAPA Notice.

On June 9, 2021, the Secretary to the Commission issued a Notice of Public Statement Hearing and Procedural Conference. A virtual public statement hearing was held before presiding Administrative Law Judge (ALJ) Michael Clarke via WebEx on July 7, 2021. Regarding the CPCN, two written comments were filed and a total of eight statements were made on the record at the public statement hearing. ALJ Clarke conducted a procedural conference immediately following the public statement hearing to determine the necessity of an evidentiary hearing. Thereafter, on July 22, 2021, ALJ Clarke issued a Ruling on Motions and Process, concluding that there were no issues of fact warranting a hearing and that the Petition could be processed without further proceedings under the ALJ's direction.

¹¹ These provisions include: PSL §§11, 19, 24, 25, and 26, and the requirements of PSL §§66(6), 68, 69, 69-a, and 70, as well as PSL §§110(2) and 119-b.

LEGAL AUTHORITY

PSL §68 prohibits an electric corporation from constructing electric plant, or from exercising any right or privilege under any franchise, until it receives the Commission's approval in a CPCN. In this instance, however, the Commission's issuance of a PSL Article VII Certificate supplants the requirement for construction approval under PSL §68, but not the requirements for Commission approval of its corporate formation and the exercise of any municipal "right, privilege or franchise."¹² Before the Commission may issue a CPCN, the electric corporation seeking approval must provide a certified copy of its charter and a "verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities."¹³ In considering its approval, the Commission "shall consider the economic feasibility of the corporation, the corporation's ability to finance improvements of a gas plant or 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."¹⁴

The PSL grants the Commission broad authority to regulate corporations that own, operate, and/or manage electric

¹² See Case 05-T-0089, Fortuna Energy Inc. - Gas Transmission Line, Order Requiring a Hearing and Extending the Time Required to Render a Decision Pursuant to Public Service Law Section 121-a(7) (issued March 23, 2005); see also TransGas Energy Sys., LLC v. New York State Bd. on Elec. Generation Siting & Env't, et al., 65 A.D.3d 1247 (2d Dept., 2009), lv. Denied 13 N.Y.3d 715; see also Case 10-G-0462, DMP New York, Inc. and Laser Northeast Gathering Company, LLC, Order Granting Certificate of Public Convenience and Necessity and Providing for Lightened Rate Making Regulation (issued February 22, 2011).

¹³ PSL §68.

¹⁴ Id.

plant, which is broadly defined by PSL §2(10). The regulation of electric corporations has been adapted over time to accommodate the development of competitive wholesale markets and lightened ratemaking regulation policies. The Commission has determined that lightly regulated entities may be exempt from certain PSL provisions that pertain to retail service because they do not serve captive utility customers.¹⁵

DISCUSSION

CPCN

PSL §68 requires an electric corporation to obtain a CPCN before constructing electric plant, such as the Project proposed by South Fork Wind. The Commission may grant a CPCN after a hearing and finding that the project is necessary and convenient for the public service and is in the public interest. CPCN requests also must be supported with evidence that the company is economically viable, can finance construction and improvements, will be able to provide safe, adequate, and reliable service, has obtained all necessary municipal consents, and has provided a certified copy of its charter.

The Commission held a public statement hearing before ALJ Clark on July 7, 2021, at which Petitioners' representatives and Department of Public Service Staff were present. Two written comments and six oral statements were received during the public statement hearing, for a total of eight public comments. Of those comments, six were in favor of granting the requested relief, while two were opposed. The oppositions were based upon claims that the environmental impact was not fully considered in the prior proceedings and that lightened

¹⁵ See, e.g., Case 16-E-0409, Indeck Corinth Limited Partnership, Order Providing for Lightened regulation (issued December 21, 2016), pp. 3-4.

regulation should not be granted based upon the transmission environment not being competitive enough.¹⁶ These matters, however, are not relevant to the Commission's considerations in this proceeding. In particular, the environmental impacts were considered in Case 18-T-0604 as part of the determination to issue an Article VII Certificate. Furthermore, the competitiveness of the transmission environment is not germane, given that the Project is akin to a generator lead line necessary for interconnecting the South Fork Wind Farm.

As required under PSL §68, Petitioners have submitted (1) a certified copy of the certificate of incorporation of South Fork Wind, LLC, as well as the associated documentation of Application of Authority with the State of New York as a foreign corporation,¹⁷ and (2) a verified statement of the president and secretary of South Fork Wind that SFW has received the required consent of the proper municipal authorities, as evidenced by certified copies of the Easement, Road Use and Crossing Agreements, and the Land Lease Agreement.¹⁸

The Petition further demonstrates that SFW has, through Ørsted and Eversource, significant access to capital markets, sufficient market capitalization, and a long history of successful projects of similar scale and scope. SFW has also entered into a PPA with LIPA, which is a sophisticated market participant capable of ensuring just and reasonable rates on behalf of its customers. Additional output may be sold by SFW on a competitive basis through the wholesale markets, subject to regulation by the Federal Energy Regulatory Commission to ensure

¹⁶ Case 21-E-0261, Public Statement Hearing Transcript (issued July 20, 2021).

¹⁷ Case 21-E-0261, Petition, Exhibit A (filed May 3, 2021).

¹⁸ Case 21-E-0261, Petition, Exhibits B, C, D, and E (filed May 3, 2021).

rates remain just and reasonable. The public need for the Project was also clearly established through the Commission's prior approval in the Article VII process.¹⁹ Accordingly, the Commission concludes, based on the record, that South Fork Wind is (1) economically feasible; (2) able to finance the Project and necessary improvements; (3) capable of rendering safe, adequate, and reliable service; and (4) able to provide just and reasonable rates. The issuance of a CPCN is therefore in the public interest.

Consistent with Commission precedent, the Article VII Certificate requirements, particularly the Environmental Management and Construction Plan, avoids or minimizes, to the extent practicable, any significant adverse environmental impacts. The Article VII proceeding addresses the potential environmental impacts of the Project and provides protective measures tailored to avoid, minimize, and mitigate those impacts. As a result, there is no need to conduct a separate environmental impact analysis in connection with the requests for relief in this proceeding.²⁰

Lightened Regulation

SFW seeks a lightened regulatory regime whereby limited provisions of the PSL would be applied, consistent with Commission precedent in the Carr Street and Wallkill Orders. In reviewing the record in this proceeding, the Commission finds that South Fork Wind is an electric service provider participating in wholesale electric markets. SFW may be lightly regulated in their construction, ownership, and operation of the

¹⁹ Case 21-E-0261, supra, Article VII Order, p. 99.

²⁰ Case 14-E-0195, Bayonne Energy Center, LLC, et al., Order Modifying Lightened Ratemaking Regulation Authorizations and Approving Financing and Declaratory Ruling on a Transfer Transaction (issued August 15, 2014) (Bayonne Lightened Regulation Order).

Project because they will be functioning as a competitive entity in the wholesale market, as well as selling output to LIPA under a PPA. The lightened regulatory regime that SFW requests be applied is similar to that afforded to others participating in competitive electric markets.²¹ South Fork Wind will transmit electricity in interstate commerce at the wholesale level, without providing direct service to retail customers. The request for lightened regulation is therefore approved, provided that SFW cannot exercise market power as a result.

In interpreting the PSL, the Commission has examined what reading best carries out the statutory intent and advances the public interest. Under this approach, PSL Article 1 applies to South Fork Wind because they will construct, own, operate, and maintain the Project, therefore meeting the definition of electric corporation under PSL 2(13), and will be engaged in the transmission of electricity under PSL §5(1)(b). SFW is therefore subject to provisions such as PSL §§11, 19, 24, 25, and 16, that prevent electric corporations from taking actions that are contrary to the public interests.²²

PSL Article 2 is restricted by its terms to the provision of service to retail residential customers and is therefore inapplicable to South Fork Wind as an entity engaged exclusively in wholesale services. Certain provisions of PSL

²¹ See, e.g., Case 15-E-0743, New York Transco LLC, Order Providing for Lightened Rate Making Regulation and Approving Financing (issued April 21, 2016) (NY Transco Order); Case 14-E-0195, supra, Bayonne Lightened Regulation Order.

²² The PSL §18-a assessment is applied against gross revenues earned on PSL-jurisdictional intrastate services. As long as SFW sells exclusively at wholesale in interstate markets, there are no intrastate revenues, and no assessment is collected.

Article 4 are also restricted to retail service.²³ The Commission determined in the Carr Street and Wallkill Orders that other provisions of Article 4, including but not limited to the provisions of PSL 68, 69, and 70, would apply to entities engaged in wholesale markets.²⁴ The Commission deemed it necessary to apply these provisions to protect the public interest. These Article 4 provisions, however, have been implemented through the Commission's lightened regulation orders in a fashion that limits their impact in a competitive market. The Commission has done so to ensure that the scrutiny given such transactions is commensurate with the level required, in the Commission's judgment, by the public interest. Under PSL §66(6), competitive providers of utility services subject to lightened ratemaking regulation satisfy annual report filing requirements through a format designed to accommodate their particular circumstances.²⁵ This analysis of Article 4 applies to South Fork Wind.

Regarding PSL Article 6, several of its provisions adhere to the rendition of retail service. These provisions do not pertain to SFW as they will engage solely in the provision

²³ See, e.g., PSL §66(12) (optional tariff filings); PSL §66(21) (retail electric corporation storm plans); PSL §67 (inspection of meters); PSL §72 (hearings and rate proceedings); PSL §72-a (reporting increased fuel costs); PSL §75 (excessive charges); and PSL §76 (rates charged religious bodies).

²⁴ PSL §68 provides for certification of electric plant and ensures the necessary municipal consent have been received. PSL §§69, 69-a, and 70 provide for the review of securities issuances, reorganizations, and transfers of securities or works or systems, respectively.

²⁵ Case 11-M-0294, In the Matter of the Filing of Annual Reports by Electric and Gas Corporations Subject to Lightened Ratemaking Regulation, Order Adopting Annual Reporting Requirements Under Lightened Ratemaking Regulation (issued January 23, 2013).

of wholesale electric transmission service. Application of PSL §115, regarding requirements for the competitive bidding of utility purchases, is discretionary and will not be imposed on wholesale service providers. In contrast, PSL §119-b, regarding the protection of underground facilities from damage by excavators, adheres to all persons, including wholesale transmission providers.

The remaining provisions of PSL Article 6 need not be imposed generally on wholesale generators.²⁶ These provisions were intended to prevent financial manipulation or unwise financial decisions that could adversely impact rates charged by monopoly providers. As discussed in the Carr Street Order, however, in the event market power issues arise, they may be addressed under PSL §§110(1) and (2), which afford the Commission jurisdiction over affiliated interests. South Fork Wind is reminded that each affiliate within the Commission's jurisdiction remains subject to the Commission's Statement of Policy Regarding Vertical Market Power (VMP Policy).²⁷

South Fork Wind remains subject to the PSL with respect to matters such as enforcement, investigation, safety, reliability, and system improvement, and the other requirements of PSL Articles 1 and 4, as with other transmission providers

²⁶ These requirements include supervision of affiliated interests under §§110(1) and (2), and approval of: loans under §106; the use of utility revenues for non-utility purposes under §107; corporate merger and dissolution certificates under §108; contracts between affiliated interests under §110(3); and water, gas, and electric purchase contracts under §110(4).

²⁷ Case 96-E-0900 et al., Orange & Rockland Utilities, Inc. - Electric Rate Restructuring, Statement of Policy Regarding Vertical Market Power (issued July 17, 1998) (VMP Policy).

that have been afforded a lightened regulatory regime.²⁸ Among these requirements are the obligations to conduct tests for stray voltage on all publicly accessible electric facilities,²⁹ and to report personal injury accidents pursuant to 16 NYCRR Part 125. As discussed elsewhere, SFW is also subject to the terms and conditions set forth in, and imposed by, the PSL Article VII Certificate.

CONCLUSION

As discussed above, the Commission grants a CPCN and provides for a lightened regulatory regime applicable to South Fork Wind, LLC. Through these actions, the Commission is continuing to support the development, financing, and operations of clean and renewable energy development and deployment in the State, consistent with the CLCPA.

The Commission orders:

1. South Fork Wind, LLC is granted a Certificate of Public Convenience and Necessity for the Project, pursuant to Public Service Law §68, as discussed in the body of this Order.
2. South Fork Wind, LLC shall comply with the Public Service Law in conformance with the requirements set forth in the body of this Order.
3. South Fork Wind, LLC shall, within 30 days of the issuance of this Order, file with the Secretary a verified

²⁸ See, e.g., Case 09-M-0251, Saranac Power Partners, L.P., Order Providing for Lightened Regulation of an Electric Corporation and Making Findings on Steam Corporation Regulation (issued June 19, 2009).

²⁹ Case 04-M-0159, Consolidated Edison Company of New York, Inc., Order Instituting Safety Standards (issued January 5, 2005) and Order on Petitions for Rehearing and Waiver (issued July 21, 2005).

written statement signed by a duly authorized officer indicating South Fork Wind, LLC's complete and unconditional acceptance of this Order and its terms and conditions. Failure to comply with this condition shall invalidate this Order.

4. In the Secretary's sole discretion, the deadlines set forth in Ordering Clause No. 3 above may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

5. This proceeding is closed pending compliance with Ordering Clause No. 3 above.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary