

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 10-T-0139 - Application of Champlain Hudson Power Express, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the PSL for the Construction, Operation and Maintenance of a High Voltage Direct Current Circuit from the Canadian Border to New York City.

NOTICE SOLICITING COMMENTS

(Issued August 21, 2023)

On April 18, 2013, the Public Service Commission (Commission) granted a Certificate of Environmental Compatibility and Public Need (Certificate) to Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (collectively, the Certificate Holders), authorizing, subject to conditions, the construction of a High Voltage, Direct Current transmission line extending approximately 330 miles from the New York/Canada border to a converter station in Astoria, Queens pursuant to Public Service Law (PSL) Article VII. Pursuant to PSL Section 123(2), the Commission has since granted several amendments to the Certificate.

In a petition filed on July 28, 2023 (July 2023 Amendment Petition), pursuant to PSL Section 123(2), the Certificate Holders request a Certificate amendment that would authorize changes to Condition 162(i). They state that the requested changes relate to Co-located Infrastructure (CI) whose owners, despite all commercially reasonable efforts, cannot be identified. They indicate that the requested amendment would authorize their use of standardized utility protection measures to protect unknown

or unresponsive CI, where crossed by the Facility, upon a demonstration that such measures will avoid adverse impacts to that CI.

Currently, Certificate Condition 162(i) reads as follows:

162. In order to protect CI described in Condition 27, the Certificate Holders shall include in the EM&CP:

- (i) documentation showing agreement by the owners and/or operators of affected CI with both Certificate Holders' construction schedule for operations in the vicinity of such CI and the measures described in the EM&CP documents relating to such CI or a description of those aspects of the proposal that are disputed, and a discussion of the positions taken by the Certificate Holders and the owners and/or operators of the CI.

If amended, the following two subsections would be added to Condition 162(i):

- (i) If, despite all commercially reasonable efforts, (a) Certificate Holders cannot identify the owners and/or operators of affected CI, or in the event such owners and/or operators of affected CI are unresponsive and, (b) due to the fact that the CI owner is unknown or unresponsive, Certificate Holders cannot provide the agreement required under Certificate Condition 162(i), then Certificate Holders shall provide, at least ten (10) days prior to requesting a Notice to Proceed with construction of any such crossing, a narrative describing efforts made in attempting to contact such unknown or unresponsive CI owners and/or operators ("Unknown or Unresponsive CI Owner Crossings"). Certificate Holders shall also provide an attestation indicating that such crossings have been designed by a Professional Engineer, along with copies

of proposed standard pre- and post-installation utility protection measures to be implemented in connection with the Unknown or Unresponsive CI Owner Crossing. The standard utility 5 protection measures to be implemented by Certificate Holders shall be substantially similar to those used for other utilities of the same utility type (telecommunications, gas, electric, etc.) in a materially similar environment (marine, rural or urban terrestrial setting, etc.). Provided that Certificate Holders can demonstrate that they have exhausted all commercially reasonable efforts to identify and/or engage Unknown or Unresponsive CI Owners, the Department may issue a Notice to Proceed authorizing Certificate Holders to proceed with standard utility protection measures at Unknown or Unresponsive CI Owner Crossings.

- (ii) In the event that, subsequent to a submittal under subsection (i) above, a previously Unknown or Unresponsive CI Owner is identified or comes forward at least five (5) business days prior to the installation of approved standard utility protection measures, Certificate Holders shall notify DPS Staff and suspend work to install such standard utility protection measures at that crossing pending further discussions with the CI Owner consistent with this Condition. In all other cases, if a previously Unknown or Unresponsive CI Owner is identified or comes forward after the expiration of that 5-day period through the commencement of Facility operations, Certificate Holders shall consult with that CI Owner to obtain an agreement regarding the sufficiency of utility protection measures installed at the crossing in question. This Condition shall not be construed to require suspension of submarine cable installation activities once commenced.

**PLEASE TAKE NOTICE** that comments on the July 2023 Amendment Petition are requested by September 11, 2023. Comments should be submitted electronically, by going to [www.dps.ny.gov](http://www.dps.ny.gov), clicking on "File Search" (located under the heading "Commission Files"), entering "10-T-0139" in the "Search by Case Number" field, and then clicking on the "Post Comments" box located at the top of the page. Those unable to file electronically may mail their comments to the Honorable Michelle L. Phillips, Secretary, New York State Public Service Commission, Three Empire State Plaza, Albany, New York, 12223-1350. Comments submitted to the Secretary will be posted on the Commission's website and will be included in the official case record.

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary