

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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In the Matter of Joint Petition of Astoria Generating Company,
L.P., TPF II Power Holdings, LLC, TPF II Power Midco, LLC,
and Eastern Generation, LLC, for a Declaratory Ruling Regarding
the Indirect Transfer of Control of Lightly Regulated Electric
Generating Facilities or, in the Alternative, for an Order Approving
the Transfer Under Section 70 of the Public Service Law
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Case No. 15-E-_____

JOINT PETITION FOR A DECLARATORY RULING
REGARDING AN INDIRECT TRANSFER OF CONTROL, OR, IN THE
ALTERNATIVE, AN ORDER APPROVING THE TRANSFER

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Attorneys for Eastern Generation, LLC

Dated: October 7, 2015

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PUBLIC SERVICE COMMISSION

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I. INTRODUCTION

Astoria Generating Company, L.P. (“Astoria Generating”), TPF II Power Holdings, LLC (“TPF II Power Holdings”), TPF II Power Midco, LLC (“TPF II Power Midco”), and Eastern Generation, LLC (“Eastern Generation” and collectively the “Petitioners”) respectfully request a declaratory ruling that the New York State Public Service Commission (“Commission”) need not review under Public Service Law (“PSL”) Section 70 the indirect transfer of control of electric generating facilities directly owned by Astoria Generating in New York. The generating facilities, which are subject to the Commission’s lightened regulation, are the (1) Astoria Generating Station, an approximately 1,337 MW (summer rating) facility located in Astoria, Queens, New York; (2) Gowanus Generating Station, an approximately 549 MW (summer rating) facility located in Brooklyn, New York; and (3) Narrows Generating Station, an approximately

283 (summer rating) MW facility located in Brooklyn, New York (collectively, the “Facilities”).¹

The indirect transfer of control would result from the acquisition of 100% of the direct membership interests in TPF II Power Midco by Eastern Generation from TPF II Power Holdings, which indirectly wholly owns Astoria Generating (the “Proposed Transaction”).² In the alternative, the Petitioners respectfully request Commission approval, without modification or condition, pursuant to PSL Section 70 and any other statutory or regulatory provision deemed applicable, to consummate the Proposed Transaction.

The Proposed Transaction will not result in any adverse impacts in New York. Eastern Generation is not planning to make physical changes to the Facilities nor does Eastern Generation have plans to make changes in the day-to-day operations, including the Facilities’ staff and the on-site organizational structure and lines of authority and communication.

No competitive issues are raised by the Proposed Transaction. Eastern Generation and its affiliates do not own or control any generation in New York, and therefore the Proposed Transaction will have no adverse effect on market concentration in New York. In addition, the Petitioners and their affiliates do not own or control any transmission or distribution assets in New York other than those transmission assets to connect the Facilities to the transmission system, and therefore the Petitioners cannot exercise vertical market power.

¹ Case 13-E-0450, *Astoria Generating Company, L.P. et al.*, Declaratory Ruling on Review of a Transfer Transaction (Nov. 19, 2013); Case 11-E-0306, *Astoria Generating Company, L.P. and USPG DevCo Holdings, LLC*, Order Approving Transfer (Aug. 23, 2011); Case 09-E-0250, *Astoria Generating Company, L.P.*, Order Granting a Certificate of Public Convenience and Necessity, Providing for Lightened Regulation, and Approving Financing (Dec. 23, 2009); Case 07-E-0322, *Astoria Generating Company Holdings LLC, et al.*, Declaratory Ruling on Review of a Merger Transaction (May 22, 2007); Case 05-E-1341, *Orion Power Holdings, Inc. et al.*, Order Approving Transfers and Financings and Making Other Findings (Feb. 15, 2006); Case 96-E-0897, *Consolidated Edison Company of New York, Inc.’s Plans For Electric Rates and Restructuring*, Order Approving Transfer of Generating Facilities and Making Other Findings (July 28, 1999) (collectively, “Light Regulation Orders”).

² The Petitioners are also seeking approval related to the Proposed Transaction from the Federal Energy Regulatory Commission (“FERC”) pursuant to Section 203 of the Federal Power Act and are making Hart Scott Rodino filings with the U.S. Department of Justice and U.S. Federal Trade Commission.

The Petitioners request confirmation that the Proposed Transaction will have no effect upon the Commission's continued lightened regulation of Astoria Generating and the Facilities.³ The Facilities will continue to be wholesale generators and, as such, will be precluded from making any retail sales. Consequently, Astoria Generating, as the Facilities' direct owner, will continue to meet the requirements for lightened regulation.

The Petitioners respectfully request that the Commission approve this Petition and issue a declaratory ruling, or, in the alternative, an order approving the Proposed Transaction, on or before its December 17, 2015 session.

II. DESCRIPTION OF THE PETITIONERS

A. Astoria Generating, TPF II Power Holdings, and TPF II Power Midco

Astoria Generating is a Delaware limited partnership, the interests in which are owned one percent by Astoria Generating Company GP, L.L.C. ("Astoria GP"), as sole general partner, and 99 percent by Astoria Generating Company Acquisitions, L.L.C. ("Astoria Acquisitions"), as limited partner. Astoria GP is a Delaware limited liability company all of whose membership interests are owned by Astoria Acquisitions. Astoria Acquisitions is a Delaware limited liability company all of whose membership interests are owned by Astoria Generating Company Holdings, L.L.C. ("Astoria Holdings"). Astoria Holdings is a Delaware limited liability company all of whose membership interests are owned by US Power Generating Company, LLC ("USPG").

USPG is a Delaware limited liability company originally formed to acquire merchant generating facilities and other competitive power assets. It is wholly owned by TPF II USPG Holdings, LLC ("TPF II Holdings"), a Delaware limited liability company. TPF II Holdings is

³ See *Light Regulation Orders*.

wholly owned by TPF II Power, LLC (“TPF II Power”), a Delaware limited liability company. TPF II Power is wholly owned by TPF II Power Midco, a Delaware limited liability company. TPF II Power Midco is wholly owned by TPF II Power Holdings, a Delaware limited liability company, which is an affiliate of Tenaska Energy, Inc. (“Tenaska”). Tenaska and its affiliates are one of the largest private, independent energy companies in the United States. In addition to the Facilities, Tenaska is affiliated with four generating facilities outside of New York that will be transferred to Eastern Generation as part of the Proposed Transaction. Eastern Generation will acquire, indirectly, 100% of the ownership interests in the four generating facilities, which include an 825 MW (summer rating) facility in Ohio, a 623 MW facility (summer rating) and a 300 MW facility (summer rating) in Illinois, and a 1,040 MW generating facility (summer rating) in Michigan.⁴

⁴ The facility in Michigan is currently interconnected in the Midcontinent Independent System Operator (“MISO”) market. However, following completion of new interconnection facilities in 2016, the facility will be interconnected with the PJM market. For purposes of this petition, the market power analysis discussed below includes this facility in the PJM market.

B. Eastern Generation

Eastern Generation is a wholly-owned subsidiary of ArcLight Energy Partners Fund VI, L.P. (“ArcLight Fund VI”). ArcLight Fund VI is a private equity fund managed by ArcLight Capital Partners, LLC (“ArcLight Capital”). ArcLight Capital also manages and controls ArcLight Energy Partners Fund II, L.P., ArcLight Energy Partners Fund III, L.P., ArcLight Energy Partners Fund IV, L.P., ArcLight Energy Partners Fund V, L.P., and ArcLight Liquid Energy Opportunities Fund, L.P. (collectively with ArcLight Fund VI, the “ArcLight Funds”), each of which also is a private equity investment fund with a focus on the independent power sector.

The ArcLight Funds are affiliated with ArcLight Energy Marketing, LLC (AEM), a marketer of electric power and natural gas that is authorized by FERC to sell energy, capacity, and ancillary services at market-based rates.⁵ AEM does not own or control any electric generation facilities.

The ArcLight Funds are affiliated with generation capacity located in various U.S. markets. In the markets controlled by the PJM Interconnection, LLC (“PJM”), the ArcLight Funds currently are affiliated with entities that own or control approximately 2,217 MW of generation capacity, including:

- Chief Conemaugh Power, LLC (Chief Conemaugh), the owner of a 35.11% undivided ownership interest in the 1,711 MW (summer/winter) Conemaugh Electric Generating Station located in New Florence, Pennsylvania. Chief Conemaugh has rights to approximately 601 MW of energy and capacity from the facility.

⁵ *ArcLight Energy Marketing, LLC*, Docket No. ER07-1106-000 (July 25, 2007) (unpublished letter order).

- Chief Keystone Power, LLC (Chief Keystone), the owner of a 44.45% undivided ownership interest in the 1,711 MW (summer/winter) Keystone Electric Generating Station located in Shelocta, Pennsylvania. Chief Keystone has rights to approximately 761 MW of energy and capacity from the facility.
- CPV Shore, LLC, the developer of a 725 MW combined-cycle electric generating facility that will be located in New Jersey.
- Panther Creek Power Operating, LLC, the lessee and operator of a 94 MW QF located in Nesquehoning, Pennsylvania; and
- Westwood Generation, LLC, the owner of a 36 MW generating facility located in Tremont, Pennsylvania.

The output of these facilities is sold on a merchant basis into the wholesale market.

In addition, the ArcLight Funds will be affiliated with approximately 298 MW of additional generation capacity in the PJM market following consummation of a pending transaction with Infigen Energy US Corporation and Infigen Energy US Holdings LLC that was authorized by FERC in Docket No. EC15-183.⁶ Specifically, the ArcLight Funds will be affiliated with the following additional entities in the PJM market:

- Allegheny Ridge Wind Farm, LLC, the owner of a 80 MW wind-powered electric generation facility located in Cambria and Blair Counties, Pennsylvania.
- Crescent Ridge LLC, the owner of a 54.45 MW wind-powered electric generation facility located in Bureau County, Illinois.

⁶ See *Allegheny Ridge Wind Farm, LLC*, 152 FERC ¶ 62,201 (2015) (Order Authorizing Acquisition and Disposition of Jurisdictional Facilities).

- GSG, LLC, the owner of an approximately 80 MW wind-powered electric generation facility located in Lee and La Salle Counties, Illinois.
- Mendota Hills LLC, the owner of a 52 MW wind-powered electric generation facility located in Compton, Lee County, Illinois.
- Jersey-Atlantic Wind, LLC, the owner of an approximately 7.5 MW wind-powered electric generation facility located in Atlantic City, New Jersey; and
- Wind Park Bear Creek LLC, the owner of an approximately 24 MW wind powered electric generation facility located in the Township of Bear Creek, Luzerne County, Pennsylvania.

Of this additional 298 MW in PJM, approximately 294 MW is committed under long-term agreements with unaffiliated third parties. Thus, the ArcLight Funds are (or soon will be) affiliated with approximately 2,515 MW of generating capacity in PJM, of which 294 MW is under long term agreements. Following the Proposed Transaction, ArcLight will be affiliated with approximately 5,459 MW of generating capacity in PJM, again, without taking into account the 294 MW under long term agreements.

The ArcLight Funds are not affiliated with any generation located in the New York Control Area. In the market administered by ISO New England, Inc. (“ISO-NE”), the ArcLight Funds are affiliated with the approximately 19.4 MW Worumbo hydroelectric facility.

None of the ArcLight Funds’ affiliates owns or controls generating facilities or transmission facilities in the markets administered by the New York Independent System Operator, Inc. (“NYISO”). Certain of its affiliates own or control generating facilities in markets first-tier to the NYISO market, as discussed above.

III. DESCRIPTION OF THE PROPOSED TRANSACTION

The terms of the Proposed Transaction are set forth in a Purchase and Sale Agreement, dated as of September 18, 2015 (the “PSA”). Pursuant to the PSA, Eastern Generation will acquire 100% of the direct membership interests in TPF II Power Midco from TPF II Power Holdings. As a result of the Proposed Transaction, Astoria Generating will become a wholly-owned indirect subsidiary of ArcLight Fund VI.⁷

IV. THE COMMISSION SHOULD DECLARE THAT THE WALLKILL PRESUMPTION APPLIES OR, IN THE ALTERNATIVE, APPROVE THE PROPOSED TRANSACTION UNDER PSL SECTION 70

The Commission has established a lightened regulatory regime for wholesale generators in New York under which PSL Section 70 review of changes in ownership is not required.⁸ In the *Wallkill Order*, the Commission decided that under this lightened regulatory regime, PSL Section 70 regulation would not adhere to a transfer of ownership interests in parent entities upstream from the affiliates owning and operating New York competitive electric generation facilities, unless there was a potential for harm to the interests of captive utility ratepayers sufficient to override the presumption (the “Wallkill Presumption”). The Commission granted Astoria Generating and the Facilities such lightened regulation, and they were afforded the Wallkill Presumption for transfers of ownership interests in the parent entities upstream from the affiliates owning and operating the Facilities.⁹

⁷ ArcLight anticipates that it will bring additional investors into the ownership of Eastern Generating. However, the identity of the potential investors, and precise ownership interests of those entities, has not yet been determined. Once the identity and ownership interests of the potential investors has been finalized, Eastern Generating and the investors will seek further approval from the Commission.

⁸ Case 91-E-0350, *Wallkill Generating Company, L.P.*, Regulation, Order Establishing Regulatory Regime (Apr. 11, 1994) (“Wallkill Order”); *see also* *Light Regulation Orders*.

⁹ *See Light Regulation Orders*.

In past decisions, the Commission has determined that the Wallkill Presumption applies to transactions involving upstream changes in control of lightly regulated entities, including transfers of indirect ownership interests in the Facilities, and has declined to review those transactions under PSL Section 70 when it has determined that the transactions would not provide the petitioners with the ability to exercise market power to the detriment of captive ratepayers.¹⁰ As discussed more fully above, the Proposed Transaction involves a change of ownership interests in parent entities upstream from the affiliates owning and operating New York competitive electric generation facilities. The Petitioners request that the Commission follow its precedent, continue to afford the Petitioners the Wallkill Presumption, and issue a declaratory ruling stating that the Commission need not review the Proposed Transaction under PSL Section 70.

No competitive issues are raised by the Proposed Transaction in New York. Wholesale electric market concentration in New York will not increase as a result of the Proposed Transaction because neither Eastern Generation nor any of its affiliates currently owns any interest in generation facilities located in New York.

To the extent the Commission considers inter-ties with the NYISO as potentially relevant to a market power analysis, Eastern Generation's affiliated ownership interests in electric generation in the PJM Interconnection do not raise horizontal market power concerns. Eastern Generation's affiliated generation in PJM will be approximately 5,459 MW following the

¹⁰ See, e.g., Case 13-E-0450, *Astoria Generating Company, L.P. et al.*, Declaratory Ruling on Review of a Transfer Transaction (Nov. 19, 2013); Case 11-E-0306, *Astoria Generating Company, L.P. and USPG DevCo Holdings, LLC*, Order Approving Transfer (Aug. 23, 2011); Case 07-E-0332, *Astoria Generating Company Holdings LLC, et al.*, Declaratory Ruling on Review of a Merger Transaction (May 22, 2007); Case 06-M-0210, *Constellation Energy Group, Inc.*, Declaratory Ruling on Review of Ownership Interest Transfers (July 25, 2006); Case 08-E-0850, *Harbinger Capital Partners Master Fund I, Ltd. and Harbinger Capital Partners Special Situations Fund*, Petition for a Declaratory Ruling Regarding Acquisition of Common Stock, and, in the Alternative, Approval Under Public Service Law § 70, Declaratory Ruling on Review of Stock Transfer Transactions (Sept. 19, 2008).

Proposed Transaction, without taking account of the 294 MW under long term agreements, which is approximately 3.0 percent of the reported 177,650 MW installed generation capacity in the PJM control area.¹¹ All of the generation that is the subject of the Proposed Transaction is located in New York City, which is interconnected with the PJM East submarket. Because Eastern Generation's affiliated generation is only a small percentage of the PJM generating capacity, there is significant other generating capacity that would compete for the limited transfer capability into New York. Further, transmission between PJM and NYISO is open-access, and neither the Petitioners nor their affiliates have any long-term contractual rights to this transmission. Consequently, the Proposed Transaction does not raise horizontal market power concerns. In addition, because the Petitioners are not affiliated with entities that own or control traditional public utilities, electric transmission, or fuel inputs into generation that operate in New York, vertical market power concerns are also absent.

Based on the foregoing, the Wallkill Presumption that no further PSL Section 70 review is required by the Commission is applicable in this case. If the Commission decides to review the Proposed Transaction pursuant to PSL Section 70, the Commission should approve the Proposed Transaction as in the public interest for the reasons discussed above.¹²

¹¹ See PJM 2015 Summer Outlook, available at <http://www.pjm.com/sitecore%20modules/web/~media/pjm-annualmeeting/postings/2015-summer-outlook.ashx>.

¹² Should the Commission decide to review the Proposed Transaction, the Petitioners respectfully request waiver of the filing requirements set forth in 16 N.Y.C.R.R. §§ 18, 31.1 and 39.1. The Commission has waived such filing requirements in the past for lightly regulated companies like the Petitioners. See Case 06-M-0948, *Re Alliance Energy, New York LLC*, Order Approving Transfer (Oct. 25, 2006); Case 05-E-0746, *In re Power City Partners, L.P.*, Order (Sept. 7, 2005); Case 03-E-1694, *Re UtilCo Group Inc.*, Declaratory Ruling and Order Concerning Transfer of Ownership Interests (Feb. 13, 2004); Case 03-E-0516, *Re Athens Generating Company, L.P.*, Order Approving Transfer and Providing for Lightened Regulation (Sept. 17, 2003).

V. LIGHTENED REGULATION AND FINANCING APPROVAL

For all of the reasons set forth in the Light Regulation Orders, Astoria Generating and the Facilities should continue to be subject to lightened regulation, and the existing financing approval issued for the Facilities should continue following consummation of the proposed transaction.¹³ The Facilities will continue to be owned and operated as wholesale power plants. Because Astoria Generating will continue to own and operate the Facilities, and participate exclusively in the wholesale generation market, their status as lightly regulated entities should continue.

In past decisions, the Commission has determined that lightly regulated entities continue to be lightly regulated following the consummation of corporate transactions or reorganizations transferring their ownership interests in the affiliates (or parent entities upstream from the affiliates) owning and operating the New York competitive electric generating facilities.¹⁴ Accordingly, following the consummation of the Proposed Transaction, the Commission should follow its precedent and continue the lightened regulation of Astoria Generating and the Facilities consistent with the Light Regulation Orders.

VI. STATE ENVIRONMENTAL QUALITY REVIEW ACT

Under the State Environmental Quality Review Act (“SEQRA”), Article 8 of the Environmental Conservation Law, and its implementing regulations (6 NYCRR §617 and 16

¹³ Case 14-E-0264, *Astoria Generating Company, L.P.*, Order Approving Financing (Issued and Effective October 2, 2014)

¹⁴ See Case 07-E-0462, *Horizon Wind Energy LLC, f/k/a Zilkha Renewable Energy, and GS Wind Holdings LLC*, Declaratory Ruling on Review of Transfer Transactions (June 26, 2007); Case 07-E-0288, *Astoria Energy LLC, SCS Energy, LLC, and Suez Energy Development NA, Inc.*, Declaratory Ruling on Review of an Ownership Interest Transfer and Making Other Findings (May 22, 2007); Case 07-E-0170, *Re Alliance Energy Renewables LLC*, Order Approving Transfer and Making Other Findings (Apr. 23, 2007); Case 04-E-0789, *Orion Power Holdings, Inc. and Great Lakes Power, Inc.*, Order Approving Transfers and a Financing and Making Other Findings (Sept. 22, 2004).

NYCRR §7), the Commission must determine whether certain actions it is authorized to approve may have a significant impact on the environment. SEQRA review, however, is not required if the Commission issues a declaratory ruling and determines that further PSL Section 70 review is not necessary.¹⁵

However, if the Commission decides to review the Proposed Transaction under PSL Section 70, SEQRA review is required as the Proposed Transaction does not meet the definition of Type I or Type II actions listed in 6 NYCRR §§617.4, 617.5, and 16 NYCRR §7.2 and, therefore, is appropriately classified as “unlisted,” requiring SEQRA review.¹⁶ Accordingly, if the Commission reviews the Proposed Transaction under PSL Section 70, it is proper for the Commission, as lead agency, to conduct an environmental assessment and to determine the significance of the actions proposed. To facilitate such assessment, attached hereto as Exhibit 1, is a complete Short Environmental Assessment Form describing the potential impact, if any, of the Proposed Transaction.

The Proposed Transaction concerns the indirect transfer of an ownership interest in the Facilities and will not change the operation of those assets that could cause an adverse environmental effect. Astoria Generating will continue to operate the Facilities in accordance with their environmental permits and all applicable environmental laws. The Proposed Transaction will not affect any environmental permits or cause new environmental impacts and, as such, should the Commission review the Proposed Transaction under PSL Section 70, it

¹⁵ See 6 N.Y.C.R.R. §617.5(c)(31) (“The following actions are not subject to review under this Part: . . . interpreting an existing code, regulation or rule.”).

¹⁶ Case 05-E-1341, *Orion Power Holdings, Inc., Astoria Generating Company, L.P. and Astoria Generating Company Acquisitions, LLC*, Order Approving Transfers and Financings and Making Other Findings (Feb., 15, 2006); Case 04-E-0789, *Orion Power Holdings, Inc. and Great Lakes Power, Inc.*, Order Approving Transfers and a Financing and Making Other Findings (Sept. 22, 2004).

should follow precedent and issue a negative declaration and undertake no further environmental review.¹⁷

¹⁷ *Id.*

VII. CONCLUSION

Based on the foregoing, the Petitioners respectfully request that the Commission:

1. Issue a declaratory ruling that the *Wallkill* Presumption applies and the Commission need not review the Proposed Transaction under PSL Section 70;
2. In the alternative, issue an Order authorizing the Petitioners to consummate the Proposed Transaction, without modification or condition; and
3. Confirm that the Proposed Transaction will have no impact on Astoria Generating's and the Facilities' status as lightly regulated entities and that the existing financing approval will remain in effect.

Dated: October 7, 2015

_____/s/_____
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VERIFICATION

I, David Dickey, Vice President and General Counsel of TPF II Power Holdings, LLC, and TPF II Power Midco, LLC, indirect owners of Astoria Generating Company, L.P., do hereby affirm that the contents of this document are true to the best of my knowledge as to the foregoing companies.

Signed: David Dickey (e-signature)

Date: October 7, 2015

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VERIFICATION

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF SUFFOLK) ss:

Theodore D. Burke, being duly sworn according to law, upon his oath, deposes
and says:

1. I am General Counsel of ArcLight Capital Partners, LLC (“ArcLight
Capital”) and am authorized to make this Verification on behalf of ArcLight Capital and
its affiliates, including Eastern Generation, LLC.

2. I have read the contents of the foregoing Joint Petition and hereby verify
that the statements therein contained are true and accurate to the best of my knowledge
and belief as to ArcLight Capital and its affiliates.



THEODORE D. BURKE

Sworn to and subscribed before me
this 7th day of October 2015



Notary Public

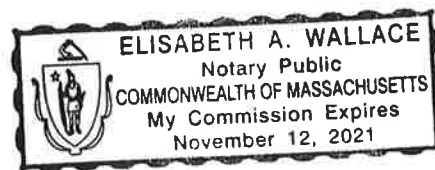


EXHIBIT 1

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project: Astoria Generating Company, L.P.			
Project Location (describe, and attach a location map): N/A			
Brief Description of Proposed Action: Applicants request the Public Service Commission's approval pursuant to Section 70 of the Public Service Law for the acquisition by Eastern Generation, LLC of 100% of the indirect ownership interests in Astoria Generating Company, L.P. The ownership transfer will not affect the operation of the generating facilities owned by Astoria Generating Company, L.P.			
Name of Applicant or Sponsor: Astoria Generating Company, L.P.		Telephone: 2127920897 E-Mail: JReese@uspowergen.com	
Address: 300 Atlantic St, Stamford, CT 06901			
City/PO: Stamford		State: CT	Zip Code: 06901
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO ☒ YES ☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: Federal Energy Regulatory Commission - Section 203 of the Federal Power Act			NO ☐ YES ☒
3.a. Total acreage of the site of the proposed action? _____ N/A acres b. Total acreage to be physically disturbed? _____ N/A acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ N/A acres			
4. Check all land uses that occur on, adjoining and near the proposed action. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☒ Other (specify): N/A ☐ Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO ☐	YES ☐	N/A ☒
b. Consistent with the adopted comprehensive plan?	☐	☐	☒
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☒	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO ☒	YES ☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO ☒	YES ☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☐	☒	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☐	☒	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO ☒	YES ☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO ☒	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO ☒	YES ☐	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO ☒	YES ☐	
b. Is the proposed action located in an archeological sensitive area?	☒	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO ☒	YES ☐	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	☒	☐	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☒ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☒ Urban ☐ Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO ☒	YES ☐	
16. Is the project site located in the 100 year flood plain?	NO ☒	YES ☐	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? ☒ NO ☐ YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: ☒ NO ☐ YES	NO ☒	YES ☐	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO ☒	YES ☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO ☒	YES ☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO ☒	YES ☐
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: Astoria Generating Company, L.P. Date: <u>6/7/05</u> Signature: <u>[Signature]</u>		