STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on July 18, 2024

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

CASE 24-E-0106 – Joint Petition of Holtec Indian Point 2, LLC; Holtec Indian Point 3, LLC; and Consolidated Edison Company of New York, Inc. for Approval of a Proposed Transfer Pursuant to Section 70 of the New York Public Service Law.

ORDER APPROVING TRANSFER

(Issued and Effective July 23, 2024)

BY THE COMMISSION:

INTRODUCTION

In a joint petition filed on February 14, 2024 (Petition), Holtec Indian Point 2, LLC, Holtec Indian Point 3, LLC (collectively, Holtec), and Consolidated Edison Company of New York, Inc. (Con Edison, and collectively with Holtec, the Petitioners) request approval under Section 70(1) of the Public Service Law (PSL) for Holtec to transfer to Con Edison certain interconnection equipment located in the Village of Buchanan and the Town of Cortlandt, Westchester County. Through this Order, the Public Service Commission (Commission) approves the transfer.

BACKGROUND

On January 8, 2017, following years of litigation, the State of New York, Riverkeeper, Inc., and Entergy Corporation (Entergy) reached an agreement under which Entergy agreed to permanently shut down the Indian Point nuclear generating facility (Indian Point) located in the Village of Buchanan and the Town of Cortlandt, Westchester County.[1] Consistent with that agreement, Indian Point's final operating reactor was permanently shut down on April 30, 2021.

Approximately two and a half years after the above agreement was reached, Entergy and Holtec jointly petitioned the Commission for approval under PSL §70(1) to transfer ownership of Indian Point from Entergy to Holtec for the purpose of decommissioning the facility, restoring the site, and releasing it for future reuse.[2] The Commission approved the transfer subject to certain conditions in May 2021.[3] Holtec has since started decommissioning the site, a process it projects will continue into the 2030s.

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[1] See Indian Point Closure Agreement (Jan. 9, 2017), https://www.nrc.gov/docs/ML1706/ML17068A245.pdf.

[2] Case 19-E-0730, Entergy Nuclear Indian Point 2, LLC et al. - Transfer Proceeding, Joint Petition of Entergy Nuclear Indian Point 2, LLC, Entergy Nuclear Indian Point 3, LLC, and Nuclear Asset Management Company, LLC for a Declaratory Ruling Disclaiming Jurisdiction over or Abstaining from Review of the Proposed Transfers or, in the Alternative, an Order Approving the Proposed Transfers Pursuant to Section 70 of the New York Public Service Law (filed November 22, 2019). Nuclear Asset Management Company, LLC and Holtec are subsidiaries of Holtec International.

[3] Case 19-E-0730, supra, Order Asserting Jurisdiction and Approving and Adopting Joint Proposal (issued May 19, 2021) (Indian Point Transfer Order) (2021 WL 2073754).

THE PETITION

The Petition seeks authorization under PSL §70 to transfer from Holtec to Con Edison ownership of certain interconnection equipment that Holtec acquired when it assumed ownership of Indian Point. This interconnection equipment is located in the Con Edison switchyard adjacent to the Indian Point facility. According to the Petition, the equipment consists of breakers, disconnect and ground switches, surge arresters, bus insulators, and related facilities.[4] In exchange for ownership of the equipment, Con Edison would pay Holtec a purchase price of $10.00. As of the date of the Petition filing, Holtec estimates the value of the equipment is $1.9 million.[5]

The equipment was previously used to interconnect Indian Point's generating facilities to Con Edison's transmission system. Although physically located in Con Edison's switchyard, some of the interconnection equipment is operated from Indian Point's Unit 3 Control Room. That control room, however, will eventually be demolished as part of Indian Point's ongoing decommissioning.

Because the Indian Point facilities no longer generate power, the interconnection equipment is no longer useful to Holtec. The equipment remains useful, however, to Con Edison.

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[4] According to Exhibit A of the Petition, titled Asset Purchase and Sale Agreement (dated November 29, 2023), the interconnection equipment includes two 345 kilovolts (kV) breakers, breaker and feeder disconnect switches, ground switches, bus section, supporting structures, six feeders, transmission towers, switchgear cubicles for 13 kV breakers, and other associated equipment.

[5] According to the Petition, Holtec does not have records from Entergy to show the original costs to purchase the interconnection equipment. The $1.9 million is the estimated undepreciated value determined by Holtec. See Exhibit C of the Petition, titled Inventory of Property to be Transferred.

Petitioners therefore seek the Commission's approval to transfer ownership of the interconnection equipment to Con Edison. Following the proposed transfer, Con Edison indicates that it will assume direct control of the equipment, maintain it, and ensure that it remains in compliance with regulatory obligations.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking (Notice) with respect to the Petition was published in the State Register on March 20, 2024 [SAPA No. 24-E-0106SP1]. The SAPA §202(1)(a) period for submitting comments in response to the Notice expired on May 20, 2024. No comments were received.

LEGAL AUTHORITY

Pursuant to PSL §70(1), the Commission must review and may approve proposed transfers of ownership interests in jurisdictional facilities and properties. Jurisdictional facilities include all electric plants in the State of New York, including "retired nuclear power reactors and their associated systems, structures, ... fixtures and personal property."[6]

The Commission applies a public interest standard when reviewing such a transfer.[7] Factors relevant to this determination include the financial strength of the transferee; the transferee's ability to safely own, maintain, operate, or

[6] PSL §2(12).

[7] Indian Point Transfer Order, p. 21; Case 20-E-0371, Exelon Generation Co. et al. - Transfer Proceeding, Order Approving Transfer and Making Other Findings (issued April 15, 2021), p. 8; Case 17-E-0452, Exelon Generation Co., LLC et al. - Transfer Proceeding, Order Approving Transfer (issued November 17, 2017), p. 9.

decommission the assets, and "any other matters that may implicate the public interest."[8]

DISCUSSION AND CONCLUSION

Coastal Zone Management Act

The federal Coastal Zone Management Act (CZMA) encourages states to protect their coastal resources by developing Coastal Management Programs (or CMPs).[9] In New York, the New York State Department of State (DOS) promulgated regulations to implement the CZMA[10] and developed a Coastal Management Program. State actions may be subject to review for consistency with the CMP, but that review — known as "state consistency review" — is conducted by the agency proposing to take the action.[11]

In this matter, Department of Public Service staff (Staff) have reviewed and completed a screening analysis, known as a coastal assessment form (CAF). Staff concluded that the proposed state action at issue here — PSL §70 approval of the transfer of ownership interests in certain interconnection equipment — would not impact the applicable CMP. Upon review of the record in this case and the Coastal Assessment Form, the Commission concludes that the proposed action does not significantly affect, and will not have a significant adverse impact on, the coastal zone. The completed CAF will be retained in our files.

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[8] Indian Point Transfer Order, p. 21; Case 20-E-0371, supra, Order Approving Transfer and Making Other Findings, p. 8.

[9] See, 16 U.S.C. §§1451-1452.

[10] See, 19 NYCRR Part 600.

[11] See, N.Y. Exec. Law §919; 19 NYCRR §§600.2(l), 600.3, and 600.4.

Environmental Quality Review Act

Under the State Environmental Quality Review Act (SEQRA), the Commission must determine whether the actions it authorizes may have a significant adverse impact on the environment. Other than Commission approval of the action proposed here, no additional state or local permits are required, so a coordinated review under SEQRA is not needed. The Commission assumed Lead Agency status under SEQRA and conducted an environmental review. Petitioners have filed a completed Short Environmental Assessment Form (EAF) Part 1, which is required under 6 NYCRR §617.6(a)(3).

The proposed action over which the Commission has jurisdiction is the transfer of certain interconnection equipment from Holtec to Con Edison. The proposed action does not meet any definition of either a Type 1 or Type 2 action listed in 6 NYCRR §617.4, 6 NYCRR §617.5, or 16 NYCRR §7.2. It is therefore an "unlisted" action as defined by 6 NYCRR §617.2(al).

After reviewing the Petition, the Commission concludes, based on the criteria for determining significance listed in 6 NYCRR §617.7(c), that approval of the proposed transfer will not result in any material change to either the way in which the interconnection equipment is used or the decommissioning of Indian Point. The transfer will therefore not result in any significant adverse environmental impacts. Staff has completed the short-form EAF Parts 2 and 3.

As Lead Agency, the Commission determines that the proposed action will not have a significant adverse impact on the environment and adopts a negative declaration pursuant to SEQRA. Because no adverse environmental impacts were found, no public notice requesting comments is required or will be issued. A Notice of Determination of Significance concerning the unlisted action is attached. The completed Short EAF will be retained in our files.

Proposed Transaction

The Commission finds that the proposed transaction is in the public interest. As discussed above, the Commission applies a public interest standard when reviewing proposed transfers under PSL §70. Relevant factors include: the financial strength of the transferee; the transferee's ability to safely own, maintain, operate, or decommission the assets; and "any other matters that may implicate the public interest."[12]

Here, we note that Con Edison is an experienced operator of electric plant and will be capable of responsibly owning and operating the interconnection equipment, which is substantially similar to many other assets that Con Edison already owns and operates. The proposed transfer would benefit Con Edison's ratepayers by enabling the utility to more efficiently operate and maintain the interconnection equipment. The transfer would also facilitate the prompt decommissioning of Indian Point, which the Commission has previously found to be in the public interest in the Indian Point Transfer Order.

The financial impacts to Con Edison and its ratepayers are negligible. Although Con Edison projects that it will incur approximately $600,000 in tax liabilities in connection with the transfer, these are customary expenses in a transaction of this nature, and the overall cost to ratepayers is relatively low given the nominal purchase price of $10.00.

Finally, approval of the proposed transfer will not result in any material change to either the use of the interconnection equipment or the decommissioning of Indian

[12] Indian Point Transfer Order, p. 21; Case 20-E-0371, supra, Order Approving Transfer and Making Other Findings, p. 8.

Point. It will therefore not result in any significant adverse environmental effects. For the foregoing reasons, the Commission finds that the proposed transaction is in the public interest and approves it under PSL §70(1).

The Commission orders:

1. The proposed transfer of ownership of interconnection equipment from Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC to Consolidated Edison Company of New York, Inc., as described in the Petition and in the body of this Order, is approved in accordance with Public Service Law Section 70(1).

2. Consolidated Edison Company of New York, Inc. shall file with the Secretary, within 60 days of the closing date of the transaction(s), a copy of the final journal entries recorded to account for the transfer of the interconnection equipment, and related workpapers.

3. This proceeding is closed pending compliance with Ordering Clause No. 2.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 24-E-0106 – Joint Petition of Holtec Indian Point 2, LLC; Holtec Indian Point 3, LLC; and Consolidated Edison Company of New York, Inc. for Approval of a Proposed Transfer Pursuant to Section 70 of the New York Public Service Law.

NOTICE OF DETERMINATION OF SIGNIFICANCE
(NEGATIVE DECLARATION)

NOTICE is hereby given that an Environmental Impact Statement will not be prepared in connection with the approval by the Public Service Commission (the Commission) of the transfer of certain interconnection equipment from Holtec Indian Point 2, LLC and Holtec Indian Point 3, LLC (Holtec) to Consolidated Edison Company of New York, Inc. (Con Edison), based on the Commission's determination, in accordance with Article VIII of the Environmental Conservation Law, that such action will not have an adverse effect on the environment. The exercise of this approval constitutes an Unlisted action, as is defined in 6 NYCRR §617.2(al).

Based on the Commission's review of the record, the Commission finds that the proposed action, which authorizes Holtec to transfer certain interconnection equipment to Con Edison, will not have a significant adverse environmental impact. Consummation of the transaction will not cause any physical alterations to the Indian Point facility, the associated switchyard, or their surroundings.

The address of the Commission, the Lead Agency for the purposes of the environmental quality review of this transfer, is Three Empire State Plaza, Albany, New York 12223-1350.

Questions may be directed to Mingdi Huang at 518-474-2832, Mingdi.Huang@dps.ny.gov, or by writing to the address above.

MICHELLE L. PHILLIPS
Secretary