STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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| Petition of Hecate Grid Swiftsure LLC for a Certificate of Public Convenience and Necessity Pursuant to Section 68 of the Public Service Law and Order Granting a Lightened Regulatory Regime. | Case: 23-E-_____ |

**PETITION OF HECATE GRID SWIFTSURE LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY PURSUANT TO SECTION 68 OF THE PUBLIC SERVICE LAW AND ORDER GRANTING A LIGHTENED REGULATORY REGIME**

## I. INTRODUCTION

Hecate Grid Swiftsure LLC ("Petitioner") is proposing to construct, own, and operate an energy storage facility called the Swiftsure Project ("Project"), to be located at Victory Blvd., Block 2784, Lot 29, Staten Island, State of New York. Petitioner will develop an up to 650-megawatt ("MW") battery energy storage system ("BESS"), capable of providing the local grid with frequency regulation, capacity, voltage control and emergency backup power.

Petitioner respectfully submits this Petition ("Petition"), with supporting documents, to the New York State Public Service Commission (the "Commission") seeking (1) a Certificate of Public Convenience and Necessity ("CPCN") pursuant to Public Service Law ("PSL") Section 68 and regulations promulgated thereunder at 16 New York Code of Rules and Regulations ("NYCRR") Part 21, allowing development of the Project, (2) an order approving a lightened regulatory regime consistent with previous Commission orders involving wholesale generators.

Because the Commission's authority under PSL § 68 gives the Commission principal responsibility for authorizing the Project, Petitioner further requests that the Commission assume Lead Agency status over the State Environmental Quality Act ("SEQRA") review of the proposed Project. The Project will not cause any significant adverse environmental impacts during construction or operation. The Project is compatible with existing land uses, and it will avoid or minimize adverse effects to air quality, water resources, noise, traffic and transportation, visual resources, community facilities and natural resources. In fact, the facility would displace energy produced from fossil plants during peak periods, resulting in lower overall air emissions.

## II. THE PETITIONER

The Project will be constructed, owned, and operated by Hecate Grid Swiftsure LLC, a limited liability company formed in the State of Delaware and authorized to do business in the State of New York (See Exhibit A). Hecate Grid Swiftsure LLC is a wholly owned project company of Hecate Energy LLC and is being developed by Hecate Grid LLC.

Hecate Grid is a leading energy storage IPP that develops, owns, and operates standalone storage projects in the U.S. The platform is jointly owned by Hecate Energy and InfraRed Capital, an infrastructure investment with over $14 billion in assets under management. Launched in September 2018, Hecate Grid has leveraged the deep industry experience of Hecate Energy and the secure backing of InfraRed Capital to establish itself as a leading storage IPP. Hecate Grid and its affiliates have contracted 420 MW / 1,680 MWH of battery storage contracts. Hecate Grid currently has 105MW/ 210 MWH under construction with expected CODs in 2023, early 2024. Hecate Grid's US energy storage pipeline exceeds 7 GW.

Correspondence and other communication concerning the filing of this Petition should be directed to:

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And to the Project's local counsel:

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## III. THE PROJECT

The Swiftsure project is a standalone battery energy storage facility that will utilize a tier-one lithium-ion storage system with a capacity of up to 650 MW. The project site is zoned M1 Industrial, and the proposed project will be built as-of-right.

The BESS portion of the Project will be located on approximately eight acres of the 12.66-acre parcel, and the gen-tie transmission line will be approximately 0.9 mile in length and will be buried under Victory Boulevard from the BESS project location to Consolidated Edison Company of New York's ("Con Ed") Fresh Kills 345 kV Substation. The Project will be composed of modular, self-contained all-weather cabinets approximately eight feet tall and 12 feet wide, aligned in rows that will house the battery systems. The cabinets will be connected to Power Conditioning Stations ("PCSs") and step-up transformers. The step-up transformers will be connected by a medium voltage (34.5kV) underground collection system that will connect the energy storage system to the Project substation. The energy storage portion of the Project will occupy approximately eight acres and will be encompassed by a security fence and visual screening. The

Project Site Plans are included in Exhibit B (see Attachment A). The limit of disturbance ("LOD") associated with the Project is included in Exhibit B (see Attachment A).

The Project Site is primarily a vacant lot used for storage of automobiles and other miscellaneous vehicles and equipment. The Project Site is surrounded mostly by commercial properties and some residential land. Photographs of the Project Site are included in Exhibit B (see Attachment A).

The Project would not generate any new electricity but would store electricity drawn from the grid and generated at other facilities. Stored energy would then be released to the grid in accordance with NYISO and Con Ed's system operating requirements providing capacity and grid reliability services. The Project will be operated by Hecate Grid Swiftsure LLC.

By storing energy available from the grid during off-peak periods and making that stored energy available during peak demand periods, the need for additional generation in New York City during such periods would be reduced. Additionally, the batteries would be capable of providing other essential ancillary services to the grid, such as reserves, regulation and voltage support. The proposed Project would not cause or require any direct emissions to air or any wastewater discharges. The facilities would not require any water for operation other than that required to operate the fire suppression systems and that required for project staff facilities. The Project would utilize existing grid infrastructure in accordance with the NYISO/Con Ed interconnection process and a new Substation on the BESS site.

Construction and Schedule

Following receipt of required permits and approvals, on-Site mobilization will begin. The Project will utilize portions of the Project Site to sequentially construct the BESS, while also using portions for materials and equipment laydown, and craft parking.

Construction activities at the Project Site will generally follow the sequence below:

1. Project Notice to Proceed – Q4 2025
2. Mobilization – Q4 2025
3. Site/Civil - Q4 2025
4. Foundation and Electrical Conduit – Q1 2026
5. BESS installation – Q2/Q3 2026
6. Commissioning and Energization – Q3/Q4 2026
7. COD – Q1 2027

During construction, a total of approximately 100 workers will be required during the approximate 12 to 18-month construction period. Adequate on-Site craft parking will be located at the Project Site.

Construction is anticipated to occur between the hours of 7:00 A.M. to 6:00 P.M., Monday through Friday, in accordance with the City Code. With the exception of the Facility's Start, Testing and Commissioning Phase, it is not anticipated that overnight, weekend or holiday construction hours will be required, but if special circumstances arise to support construction, Hecate Grid Swiftsure LLC will request approval from the City in advance. Further, construction will abide by the Construction Noise Mitigation Plan required as part of the Construction Permit, and Hecate Grid Swiftsure LLC will work with city departments to maintain regulatory compliance during construction.

Project construction is planned to commence late 2025 with a schedule to complete most of the on-Site construction and restoration during 2026. The planned commercial operation date for the Project is Q1 2027.

Financing

Hecate Grid Swiftsure LLC estimates total costs of the Project at approximately $300 million, which the company expects to finance through a combination of debt, equity and tax equity. Hecate Grid closed a $100 Million project debt financing in January of 2023 and is in the

process of raising additional equity and debt for near-term pipeline projects. Hecate Grid is currently backed by equity funding from InfraRed Capital Partners, a $14 Billion AUM infrastructure fund based in the U.K.

Decommissioning

At the time the Facility reaches the end of its useful life (anticipated to be a minimum of 30 years) or, alternatively, storage and distribution of electricity has ceased or been abandoned for more than one year, the Facility will be decommissioned. Decommissioning will involve removal of equipment, capping utilities and final restoration such that the property can be repurposed and utilized for other commercial or industrial purposes The batteries will be removed from the BESS containers and returned to the manufacturer or their approved recycling partner(s) for dismantling, material processing and recovery of ferrous and non-ferrous metals and other packaging products. The overall goals and objectives for decommissioning a BESS are similar to those established for decommissioning other types of renewable energy projects.

The Decommissioning Plan for the Project is contained in Attachment B of Exhibit B, which has been prepared consistent with the goals and objectives of the local permitting authority.

## IV. REGULATORY REVIEW

The proposed Project anticipates requiring certain Federal, State, and local permits and approvals as summarized in Table 1 below:

**Table 1. Summary of Anticipated Permits, Approvals and Involved Agencies[1]**

| Agency | | Permit/Approval | Agency Action |
|---|---|---|---|
| Federal | Federal Energy Regulatory Commission (FERC) | Exempt Wholesale Generator Certification | Self-certification as exempt wholesale generator for BESS 10 MW in size or greater. |
| | Federal Aviation Administration (FAA) | Determination of No Hazard | Required pursuant to FAA Regulations, Part 77- Objects Affecting Navigable Airspace for construction cranes or other elevated structures exceeding 200 feet or to be used within proximity of an airport or heliport. |

**Table 1. Summary of Anticipated Permits, Approvals and Involved Agencies[1]**

| Agency | | Permit/Approval | Agency Action |
|---|---|---|---|
| | U.S. Fish and Wildlife Service (USFWS) | Section 7: Threatened and Endangered Species Review and Consultation | Determination if federally-regulated species or their habitats are potentially present on-Site. |
| | U.S. Environmental Protection Agency (USEPA) | Spill Prevention, Control and Countermeasure (SPCC) Plan (*potential*) | Spill Prevention and Response Plan prior to BESS operation. |
| State | New York State Independent System Operator (NYISO) | Interconnection Approval from NYISO | Approval to interconnect to transmission system. |
| | New York State Public Service Commission (NYSPSC) | Section 68 Certificate of Public Convenience and Necessity | Approval to construct an electric facility greater than 80 MW. |
| | | State Environmental Quality Review Act | |
| | | Confirmation of lightened regulation | |
| | | PSL Section 69 financing approval | |
| | New York State Department of Environmental Conservation (NYSDEC) | SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) (*potential*) | Potentially required dependent upon Town Planning Board-approved Final Site Plan including Stormwater Management design for disturbances over one-acre. |
| | | New York Natural Heritage Program (NYNHP), Threatened and Endangered Species Inventory Review<br>Article 11, 6 NYCRR Part 182 | Required consultation letter sent to the NYNHP to determine if the Project will impact any protected plant or animal species habitat. |
| | New York State Office of Parks, Recreation and Historic Preservation (OPRHP) | Section 106 Cultural and Historic Resources / The New York State Historic Preservation Act of 1980 Review and Consultation – "Determination of No Effect" | Determination required whether cultural and/or historic resources are potentially present on site. Required for issuance of all State and Federal permits. |
| | | New York State Parks, Recreation and Historic Preservation Law, Section 14.09: Cultural Resource Review | |
| | New York State Department of Transportation (NYSDOT), Region 10 | Utility or Highway Work Permit (PERM 75), Revokable Consent | Required for work within and crossing state highways and ROWs. |
| City of New York | NYC Department of Buildings Office of Technical Certification and Research (DOB OTCR) | PW2 for BESS, and work associated with BESS | Plan examiner shall establish a discretionary required item for final OTCR material acceptance |
| | | | Additionally, pursuant to AC 28-113, the Office of Technical Certification and Research (OTCR) will evaluate battery energy storage systems on a site-specific basis |
| | | | OTCR will then issue Conditional Acceptance Letter |
| | | PW2 for Bess, and work associated with BESS; ED16A for electrical work permit | After receipt of BESS certification, OTCR will issue Final Acceptance Letter |
| | | OTCR2 | |

**Table 1. Summary of Anticipated Permits, Approvals and Involved Agencies[1]**

| Agency | | Permit/Approval | Agency Action |
|---|---|---|---|
| | Fire Department of New York (FDNY) | FDNY Bureau of Fire Prevention Outdoor Stationary Battery System<br>FDNY Bureau of Fire Prevention Fire Alarm<br>FDNY Bureau of Fire Prevention Fire Suppression | Letter of No Objection (LNO) |
| | NYC Department of Buildings (DOB) | Building Permits inclusive of site, civil, structural, electrical, sprinkler mechanical and plumbing as required per final design. | Required for construction of facilities |

**Notes:**
[1]This table does not address permits, approvals or easements necessary for off-site infrastructure that are the responsibility of others/third parties.

## V. NEED FOR THE PROJECT

The site is zoned M1 Industrial, and BESS is considered as of right in industrial zoned sites in the City of New York.

The Project is contemplated by and in furtherance of the Public Service Commission's ("PSC") Order Establishing Energy Storage Goal and Deployment Policy (Case 18-E-0130). On December 13, 2018, the PSC established a statewide energy storage goal of installing up to 3,000 MW of qualified energy storage systems by 2030, with an interim objective of deploying 1,500 MW by 2025. On January 5, 2022, during her State of the State address, Governor Hochul called for New York to double its Energy Storage goal to 6,000 MW by 2030.

In addition to the requirements in the CLCPA, the New York State Climate Action Council ("CAC"), a 22-member committee charged with preparing a scoping plan to achieve the State's bold clean energy and climate agenda, released the draft scoping plan and the comment period started as of January 1, 2022. That draft scoping plan describes a need to target higher levels of energy storage:

> A portfolio of energy storage technologies will be needed as intermittent renewable energy generation penetration increases. Existing and newer, long-duration, storage

will be needed to maintain reliability as the State approaches 2040; however, these technologies will need to be deployed well before 2040 to reach the State's goals.

In 2018, the PSC issued a landmark energy storage order based on the Energy Storage Roadmap. The Order established a 3,000 MW energy storage goal by 2030 and included deployment mechanisms to achieve the target. However, the goal was established based on a 50% renewable target for 2030. The new Climate Act targets will require significantly higher levels of energy storage as exemplified in the recent Power Grid Study which identified a need for more than 15 GW of energy storage. The Order also included $350 million in bridge incentives to accelerate the energy storage market, including solar-plus-storage projects with NY-Sun and another $53 million in RGGI funds. As of December 2021, these funds have been almost fully allocated. Though the Order was a significant step forward for the energy storage market in New York, deployment needs are most certainly greater than initially envisioned and these existing programs will be insufficient to meet the expanding need.

Together with stakeholders, New York State Energy Research and Development Authority ("NYSERDA") and the New York State Department of Public Service ("NYSDPS") developed the New York State Energy Storage Roadmap ("Roadmap") identifying the near-term policies, regulations and initiatives needed to meet the BESS development targets[1]. As stated in the Roadmap, there are several benefits associated with deployment of energy storage systems. They include: enhancing the electric system operational functionality, thereby enabling cleaner renewable energy sources to meet periods of peak demand; adding resiliency to the grid to reduce outages; creating new energy storage sector employment opportunities; and, providing public health benefits through reduced air emissions (i.e., carbon dioxide [$CO_2$] and nitrogen oxide [$NO_x$] resulting from the displacement of older, fossil-fuel generating units. In her January 2022 State of The State Address Governor Hochul called for an updating of NYSDPS 'and NYSERDA's energy storage deployment Road Map.

[1] New York State Energy Storage Roadmap, issued on June 21, 2018, in Case Number 18-E-0130, *In the Matter of Energy Storage Deployment Program*.

This Project will help advance the State energy policy objectives, including those announced in Governor Hochul's 2022 State of the State Address, improve the reliability and stability of the grid, and have a positive impact on the environment. The Project will not cause or result in direct air emissions or process discharges to surrounding waterbodies, nor will it require significant volumes of water for operation (water is only required for fire protection) or result in any sanitary wastewater discharges. Even more, the project will be a net benefit to local air quality through reducing the direct need for deploying peaker plants during peak demand scenarios and reducing commercial traffic that currently utilizes the site with a BESS facility and, by nature of its operations, will generate less commercial traffic in the area.

The Project will support and promote New York State's movement away from fossil fuel energy sources and toward renewable energy sources, thereby improving, over time, the air shed and overall environmental quality of life for City residents. In addition, direct benefits to the City include, but may not be limited to, the following:

- Improved, more cost-effective, local electric service reliability during daily and seasonal peak demands, as well as during and following severe weather storms;
- A new property tax base over the expected life of the project; and
- Twelve to eighteen-month construction timeframe with up to approximately 100 construction jobs

## VI. ENVIRONMENTAL REVIEW OF THE PROJECT

Accompanying this Petition, Hecate Grid Swiftsure LLC submits an Expanded Environmental Assessment Form ("Expanded EAF") under the New York State Environmental Quality Review Act ("SEQRA"). See Exhibit B. Hecate Grid Swiftsure LLC requests that the Commission assume Lead Agency status over the SEQRA review of the proposed Project, since the Commission's authority under PSL § 68 gives the Commission principal responsibility for authorizing the Project.

As demonstrated in the Expanded EAF, the Project will not result in any significant adverse environmental impacts. The Project is compatible with existing land uses, and it will avoid or minimize adverse effects to air quality, water resources, noise, traffic and transportation, visual resources, community facilities and natural resources. The need for additional fossil fuel generation and associated emissions during such periods will be reduced as a result of the Project's ability to store energy available from the grid during off-peak periods and make that stored energy available during periods of peak electric demand. This section summarizes the assessment of impacts in the Expanded EAF, by relevant potential impact areas. More detailed analyses are contained in the attachment to the Expanded EAF.

Land Use and Zoning

The Proposed Project would improve a vacant site, currently occupied by surface parking and abandoned vehicles, with a 650 MW BESS. In addition to the BESS facility, the Project Site would be improved with operational maintenance parking (surface parking), a buried transmission line, and a project substation. The proposed BESS facility would be generally consistent with the industrial, manufacturing, utility, and other non-residential uses that dominate the West Shore of Staten Island.

No zoning actions are required to facilitate the Proposed Project, and none are proposed. The Proposed Project would be sited entirely within the M1-1 portion of the Subject Property and occupy an area greater than 10,000 sf. Therefore, pursuant to the DOB Bulletin 2019-007, the Proposed Project meets the definition of Use Group 17C and would comply with the use requirements of the M1-1 district (ZR 42-10). Further, the Proposed Project would comply with all dimensional requirements of the M1-1, including floor area, yard and height, and parking and loading standards.

Based on this information, the Proposed Actions would not result in any potentially significant land use or zoning impacts; therefore, no further assessment is warranted.

Community Facilities and Services

The Project will not result in any impacts to community facilities and services during construction or operation. During construction, approximately 100 total construction jobs will be required during the 12 to 18-month construction period. The Project anticipates 2 to 4 employees on-site during operations. Due to the limited duration of construction and potential small number of full-time employees on site, there will not be a material increase in the number of individuals using community facilities and services.

Cultural Resources

There are no known archaeological resources that overlap with the Project and one historical resource listed on the NRHP. The site listed on the NRHP is located adjacent to the gen-tie line that will be buried underground. Therefore, there are no anticipated impacts to archaeological or historical architectural resources. TRC, on behalf of the Applicant, consulted with the OPRHP to confirm this determination. A letter to OPRHP was submitted on April 20, 2023, and follow up information was submitted on June 22, 2023. Both submissions are included in Attachment E. A response has not been received as of July 31, 2023.

Visual Resources

The Project is not anticipated to have adverse visual impacts to the surrounding areas as it is located on a previously developed commercial property and will be enclosed by a security fence with visual screening. The associated generation tie-line will be buried underground and therefore will not have a visual impact on surrounding areas.

Socioeconomic Disadvantaged Communities and Environmental Justice

The Project will generate positive economic benefits to the surrounding communities, including new annual tax payments, construction jobs, local spending in the area on supplies and materials for construction, and spending by construction workers in the area on food, lodging, increasing grid reliability and resiliency, and other services. As described herein, the Project will result in beneficial effects on air quality (replacing combustion turbines in NYC with energy storage technology, further enabling NYC and NY to meet its electrification targets while maintaining grid reliability and reducing commercial traffic in and out of the site compared with current use) and will have no significant adverse visual or noise impacts; therefore, the Project will not result in a disproportionate or adverse impacts to any disadvantaged communities nor any potential EJ communities.

Topography and Soils

*Grading and Drainage*

The Project's Site Plan Drawings (Exhibit B, Attachment A) include proposed contours, drainage areas and stormwater runoff. As the site is already developed and primarily impervious cover, a significant increase in surface runoff is not expected. The Project will develop a Stormwater Pollution Prevention Plan ("SWPPP") in accordance with the NYSDEC State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Construction Activity prior to the commencement of construction. The SWPPP will also be compliant with the NYSDEC Stormwater Management Design Manual.

The SWPPP will detail the proposed stormwater management practices and best management practices (BMPs) for the Project. The Project is anticipated to require a storm sewer system including manholes and culvert to capture stormwater runoff throughout the Project Site.

*Erosion and Sediment Control*

As noted above, the Project will develop a SWPPP in accordance with the NYSDEC SPDES General Permit. The SWPPP will detail the proposed stormwater management practices as well as the recommended erosion and sediment control practices to be employed at the Project during construction and inspection and reporting requirements for the erosion and sediment controls. The following erosion and sediment controls may be used at the Project:

- Stabilized Construction Entrance: A stabilized construction entrance is a stabilized aggregate underlain with geotextile fabric, placed at the entrance/exit points of the construction site. The entrance aids in the removal and reduction of sediment tracking onto public roadways.
- Silt Fencing: Silt fence is a temporary barrier used to intercept sediment laden stormwater runoff. The fence is made of a geotextile fabric that is buried into the ground and impounds water to allow sediment settling in the runoff to occur. Silt fence can be reinforced with wire or chain-link if needed based on site conditions. Silt fence is typically used as a perimeter control but may also be used throughout the construction site.
- Compost Filter Socks: Compost filter socks are a temporary sediment control practice which prevents the migration of sediment offsite. The socks are composed of a degradable geotextile mesh tube and filled with compost filter media which filters runoff as it passes through the tube. Compost filter socks may be used as a perimeter control or throughout the construction site.
- Storm Drain Inlet Protection: Inlet protection is a temporary barrier used to prevent sediment laden stormwater runoff from entering storm sewer systems. This practice shall be used where the drainage area to an inlet is disturbed and diverting runoff is not feasible.

- Concrete Truck Washout: Concrete truck washouts shall be used by concrete truck mixers and equipment to wash the equipment and prevent concrete waste and runoff from entering storm sewer systems or leaching into soils. Concrete washout facilities may be a temporary excavated or above ground lines construction pit and shall be adequately sized.
- Topsoiling: Spreading of topsoil should be completed prior to placing final seed and mulch for final stabilization of the site. The topsoil provides a suitable ground cover for establishment of grass and reduces the need for fertilizer application.
- Mulching: Application of mulch may be used as a temporary or permanent erosion control method. Temporary mulch shall be applied to idle disturbed soil areas during construction. Mulch shall be applied during permanent seeding application for final stabilization and vegetation establishment. Mulching shall be placed at double the normal rate during the winter stabilization period from November 15th to April 1st.
- BMPs will also be utilized to minimize erosion and sedimentation during construction. The erosion and sediment controls and BMPs employed during construction of the Project shall comply with the NYSDEC Standards and Specifications for Erosion and Sediment Control (dated November 2016, or most current version). The SWPPP will require review and approval by the New York City Department of Environmental Protection ("DEP") prior to issuance of the SPDES General Permit for the Project by the NYSDEC. The Site Plan Drawings in Exhibit B, Attachment A, include an Erosion and Sediment Control Plan. A copy of the Erosion and Sediment Control Plan shall be included in the Project SWPPP.

Water Resources

The Project will not result in any adverse impacts to surface waters or regulated wetlands. The Project Site does not contain any federal or state regulated wetlands. Erosion and sediment

control measures will be installed during construction and BMPs will be used to protect the water resources located off site. During construction and operation, the stormwater discharges will be managed under the SWPPP.

Terrestrial Resources

The Project Site does not contain suitable habitat for the species that have been identified as potentially occurring in the vicinity of the Project and potential offsite habitat will be protected via the SWPPP and BMPs for sediment and erosion controls. No known occurrences occur on the actual Project Site. Therefore, impacts to listed species are not anticipated due to the Project.

Traffic and Transportation

During construction of the BESS Facility, there will be approximately 100 total project related construction workers commuting to and from the site and material/equipment deliveries during the construction phase. Based on the current Project design, it is anticipated construction parking will be contained within the Project Site and access will be through an entrance on Latimer Avenue.

During the construction period, anticipated Project-related traffic would consist of commuting construction workers and material/equipment deliveries. Based on preliminary engineering, most construction parking and staging areas will be located within the Project Site and within the temporary traffic control pattern. Construction is anticipated to occur between the hours of 7:00 AM and 6:00 PM, Monday through Friday. Access to the Project Site will utilize ingress/egress via Baron Boulevard, which intersects Victory Boulevard approximately 200 ft to the north. It is anticipated that Project-related deliveries and construction crews will utilize NY-440/Victory Boulevard from the west and Victory Boulevard from the east. Deliveries can be

dispersed throughout the day and any large delivery will be scheduled to occur outside of the roadway peak hours.

Based on the limited number of construction workers and production rate, the temporary construction of the Project will not have a significant impact on traffic operating conditions. The existing roadway network will be able to support this anticipated traffic. No roadway improvements will be required for the construction phase of this Project other than the restoration of the trench with in-kind replacement of the bituminous pavement structure.

After completion of the Project, the operation of the Facility would result in minimal traffic in the area as the Facility will be unmanned during operation, a major improvement over existing Site-generated traffic. Typical maintenance requirements are performed during normal operation with BESS service technicians on site to inspect all equipment, replace/clean filters, as necessary, and perform any required sampling dictated by operational and/or permit requirements. Therefore, Project-related traffic during operation will not have a significant impact on traffic operating conditions or the existing roadway network.

It is anticipated two options will be considered for the installation of the new cable and conduit, Open Trench (4500 LF) vs. Open Trench (3000 LF) with Horizontal Directional Drilling (1500 LF). It is anticipated the open trench will be 3 ft wide by 8 ft deep, utilizing a trench box. It is estimated the production rate for the installation of the new cable and conduit via open trench will be 200 ft per day. Therefore, the temporary traffic control will be considered a short-term operation. It is assumed all work to be completed during the daytime.

*Option #1 – Open Trench*

- **Victory Boulevard -** During construction, it is anticipated that traffic will be temporarily impacted along Victory Boulevard from the project site to

approximately 250 ft west of the intersection with Cannon Avenue. It is anticipated a temporary single lane closure will be used due to the location of the proposed alignment, width of the work zone and remaining space available to convey traffic.

Additionally, it is anticipated that traffic will not be impacted as there is sufficient space available for two temporary lanes along Victory Boulevard from Cannon Avenue to the substation on the west side of NY-440.

It is assumed that the daily work zone will be 200 ft long plus the required distance for the lane shifts/tapers and advanced signing for any given day. Therefore, in the vicinity of the work zone and tapers, parking spots will be temporarily unavailable.

- **NY-440 -** It is anticipated that traffic may be temporarily impacted along NY-440 with the overhead installation of the new conduit between the existing bridge beams.

  It is important to note that NY-440 has two 12 ft lanes, 4 ft inside shoulder and 10 ft outside shoulder. It is assumed half width construction will be utilized to cross NY-440 in two stages via a temporary single lane/shoulder closure.

- **NY-440 Northbound On-Ramp / Glen Street -** It is anticipated the northbound on-ramp traffic and the corresponding crosswalk will be temporarily impacted. It is assumed half width construction will be utilized to cross the on-ramp in two stages. It is estimated that a sidewalk detour will be required to reroute pedestrians.

- **NY-440 Southbound Off-Ramp -** It is anticipated the southbound off-ramp traffic and the corresponding crosswalk will be temporarily impacted. It is assumed half width construction will be utilized to cross the on-ramp in two stages.

- **Side Streets -** It is anticipated that traffic using Melvin Avenue, Wild Avenue, Parish Avenue, Burke Avenue, Leroy Street and Cannon Avenue will be temporarily impacted by half width construction, crossing the side streets in two stages. It is important to note the minimum side street width is approximately 24 ft.

  Additionally, it is anticipated sidewalk detours will be employed to mitigate the temporary impact to the crosswalks at the Melvin Avenue and Wild Avenue intersections.

- **Private Driveways -** There are several driveways located along the north side Victory Boulevard that will be temporarily impacted on between Ridgeway Avenue and Melvin Avenue intersections. Coordination with the property owners will be required when trenching across residential or business driveways.

Option #2 – Open Trench with Horizontal Directional Drilling (HDD)

- **Victory Boulevard -** It is anticipated that traffic will be temporarily impacted along Victory Boulevard from the project site to approximately 250 ft west of the Cannon Avenue intersection, via a temporary single lane closure during the daytime. Additionally, it is anticipated that traffic will not be impacted as there is sufficient space for two temporary lanes along Victory Boulevard from Cannon Avenue to approximately 175 ft east of the intersection with Roswell Avenue.

  There is a transverse open trench on Victory Boulevard, east of the Roswell Avenue intersection, that will temporarily impact traffic by using half width construction. This transverse trench will be constructed in two stages to cross Victory Boulevard.

It is estimated that HDD will be utilized from Roswell Avenue to the site containing the substation. Therefore, no impacts to traffic are anticipated.

It is assumed that the work zone will be 200 ft long plus the required distance for the lane shifts/tapers and advanced signing for any given day. In the vicinity of the work zone and tapers, parking spots will be temporarily unavailable.

- **NY-440 -** It is anticipated with the use of HDD, NY-440 traffic will not be impacted.
- **NY-440 Northbound On-Ramp / Glen Street -** It is anticipated with the use of HDD, the northbound on-ramp traffic and the corresponding crosswalk will not be impacted.
- **NY-440 Southbound Off-Ramp -** It is anticipated with the use of HDD the southbound off-ramp traffic and the corresponding crosswalk will not be impacted.
- **Side Streets -** During construction, it is anticipated that traffic using Melvin Avenue, Wild Avenue, Parish Avenue, Burke Avenue, Leroy Street and Cannon Avenue will be temporarily impacted by half width construction, crossing the side streets in two stages. It is important to note the minimum side street width is approximately 24 ft.

Additionally, it is anticipated sidewalk detours will be employed to mitigate the temporary impact to the crosswalks at Melvin Avenue and Wild Avenue.

It is anticipated with the use of HDD Roswell Avenue and the corresponding crosswalk will not be impacted.

- **Private Driveways -** There are several driveways located along the north side Victory Boulevard that will be temporarily impacted on between Ridgeway Avenue and Melvin Avenue intersections. Coordination with property owners will be required when trenching near residential or business driveways.

Noise

This section discusses the noise study conducted for the Project, which included background noise measurements to characterize the existing noise environment, noise modeling to predict the sound levels resulting from the operation of the Project at the property line and any nearby sensitive receptors, including an assessment of compliance with the New York City Noise Control Code and the New York State Department of Environmental Conservation's (NYSDEC) Assessing and Mitigating Noise Impacts (DEP-00-1, February 2, 2001) guidance policy. A comprehensive Noise Study Report has been provided as Attachment G to Exhibit B.

APPLICABLE STANDARDS AND GUIDELINES

The New York City Noise Code includes the maximum sound pressure levels from any sound source operating in connection with any commercial or business enterprise at the specified receiving properties:

**New York City Noise Control Code Maximum Sound Pressure Levels (dB) as Measured Within a Receiving Property as Specified Below**

| Octave Band Frequency (Hz) | Residential Receiving Property (A-weighted) | Commercial Receiving Property (A-weighted) |
|---|---|---|
| 63 | 61 (34.8) | 64 (37.8) |
| 125 | 53 (36.9) | 56 (39.9) |
| 250 | 46 (37.4) | 50 (41.4) |
| 500 | 40 (36.8) | 45 (41.8) |
| 1,000 | 36 (36.0) | 41 (41.0) |
| 2,000 | 34 35.2) | 39 (40.2) |
| 4,000 | 33 (34.0) | 38 (39.0) |
| 8,000 | 32 (30.9) | 37 (35.9) |

The NYSDEC noise guideline establishes thresholds for the determination of whether an increase in sound level caused by a new source constitutes a significant adverse impact as follows:

- Increases from 0 to 3 dBA should have no appreciable effect on receptors;
- Increases of 3 to 6 dBA may have the potential for adverse impacts only in cases where the most sensitive receptors (e.g., hospital or school) are present;
- Increases of more than 6 dBA may require a closer analysis of impact potential depending on existing noise levels and the character of surrounding land uses and receptors;
- Increases of 10 dBA or more deserve consideration of avoidance and mitigation measures in most cases.

The NYSDEC guidance also establishes that the addition of any noise source in a no-industrial setting should not raise the ambient level above 65 dBA or in an industrial or commercial setting above 79 dBA without exploring the feasibility of implementing mitigation.

EXISTING NOISE ENVIRONMENT

Ambient sound level measurements were taken at the Property site property line to characterize the existing sound environment. Short term measurements were taken at several locations during both daytime and nighttime periods and 24-hour measurements were taken at a single location continuously over a 3-day period.

The ambient sound level measurements were taken at the following measurement points:

- MP-1: East side of property, near Latimer Ave and Baron Boulevard
- MP-2: West side of property, near residences on Cannon Ave
- MP-3: South side of property, closest to Victory Blvd

- MP-4: North side of property, next to Meredith Woods

The results of the ambient sound level measurements are summarized in the following tables:

Short Term Noise Monitoring Results Summary (dBA)

| Site ID | $LA_{EQ}$ | $LC_{EQ}$ | $LA_{10}$ | $LA_{50}$ | $LA_{90}$ |
|---|---|---|---|---|---|
| **7AM - 8AM** | | | | | |
| **MP-1** | 64.0 | 75.0 | 69.4 | 57.5 | 55.0 |
| **MP-2** | 60.5 | 73.1 | 73.1 | 57.4 | 56.1 |
| **MP-3** | 54.3 | 54.3 | 54.3 | 54.3 | 54.3 |
| **MP-4** | 58.0 | 69.1 | 59.3 | 57.4 | 55.9 |
| **10AM – 11AM** | | | | | |
| **MP-1** | 52.6 | 65.1 | 53.8 | 51.0 | 49.2 |
| **MP-2** | 53.5 | 66.6 | 55.8 | 52.6 | 51.1 |
| **MP-3** | 55.6 | 66.8 | 57.7 | 52.8 | 51.6 |
| **MP-4** | 56.4 | 68.6 | 57.8 | 55.5 | 54.6 |
| **4:30PM - 5:30PM** | | | | | |
| **MP-1** | 53.6 | 65.5 | 55.8 | 52.5 | 51.4 |
| **MP-2** | 55.6 | 67.5 | 57.7 | 54.0 | 52.5 |
| **MP-3** | 56.3 | 68.4 | 68.4 | 54.2 | 52.4 |
| **MP-4** | 57.6 | 68.3 | 59.0 | 57.0 | 56.1 |
| **10PM - 11PM** | | | | | |
| **MP-1** | 57.2 | 67.6 | 57.8 | 55.9 | 54.5 |
| **MP-2** | 58.3 | 72.4 | 59.7 | 57.4 | 56.2 |
| **MP-3** | 58.7 | 69.4 | 62.6 | 55.5 | 54.0 |
| **MP-4** | 60.1 | 69.8 | 61.4 | 59.8 | 58.9 |

Short Term A-Weighted Octave Band Analysis Summary (dBA)

| Site ID | Octave Band Center Frequency (Hz) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | **16** | **31.5** | **63** | **125** | **250** | **500** | **1000** | **2000** | **4000** | **8000** |
| **7AM - 8AM** | | | | | | | | | | |
| **MP-1** | 14.4 | 28.0 | 37.8 | 47.6 | 48.7 | 52.8 | 55.2 | 50.8 | 49.0 | 32.0 |
| **MP-2** | 5.4 | 22.7 | 35.9 | 46.0 | 53.5 | 58.9 | 52.0 | 53.2 | 53.0 | 50.9 |
| **MP-3** | 12.9 | 24.5 | 31.5 | 37.5 | 39.2 | 43.6 | 46.4 | 38.7 | 32.3 | 20.0 |
| **MP-4** | 9.8 | 20.8 | 32.6 | 38.1 | 42.3 | 46.4 | 51.2 | 41.6 | 30.4 | 18.9 |

| 10AM – 11AM | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **MP-1** | 2.1 | 17.3 | 29.6 | 36.5 | 41.8 | 42.7 | 43.2 | 32.5 | 21.0 | 11.1 |
| **MP-2** | 0.4 | 17.4 | 33.8 | 40.4 | 40.8 | 41.9 | 45.1 | 34.1 | 20.9 | 16.6 |
| **MP-3** | -0.5 | 18.1 | 32.1 | 39.5 | 42.8 | 45.5 | 46.4 | 39.3 | 36.9 | 27.7 |
| **MP-4** | 2.5 | 18.8 | 34.5 | 40.8 | 44.4 | 43.8 | 48.6 | 36.0 | 16.6 | 10.0 |
| **4:30PM - 5:30PM** | | | | | | | | | | |
| **MP-1** | 4.5 | 17.5 | 29.2 | 34.4 | 39.2 | 43.6 | 45.3 | 39.3 | 31.0 | 22.6 |
| **MP-2** | 2.4 | 19.7 | 34.2 | 38.3 | 43.6 | 45.6 | 45.3 | 40.1 | 32.5 | 23.2 |
| **MP-3** | 2.6 | 21.0 | 33.1 | 40.0 | 44.1 | 46.6 | 47.0 | 40.1 | 34.3 | 25.3 |
| **MP-4** | 4.7 | 19.2 | 34.0 | 40.1 | 44.7 | 45.4 | 50.5 | 40.9 | 30.6 | 19.5 |
| **10PM - 11PM** | | | | | | | | | | |
| **MP-1** | 8.8 | 20.5 | 28.4 | 34.6 | 40.8 | 47.0 | 49.0 | 44.9 | 35.2 | 24.6 |
| **MP-2** | 12.9 | 23.8 | 38.2 | 40.3 | 45.5 | 47.4 | 49.9 | 42.7 | 34.1 | 26.0 |
| **MP-3** | 5.2 | 21.6 | 34.3 | 40.8 | 44.3 | 48.7 | 50.3 | 42.3 | 35.6 | 28.8 |
| **MP-4** | 9.1 | 20.6 | 33.7 | 40.3 | 45.6 | 47.9 | 53.1 | 44.7 | 31.3 | 22.0 |

Long Term Noise Monitoring Results Summary (dBA)

| Site ID | $LA_{EQ}$ | $LC_{EQ}$ | $LA_{10}$ | $LA_{50}$ | $LA_{90}$ |
|---|---|---|---|---|---|
| **May 2 - 5** | | | | | |
| **MP-2** | 56.7 | 67.4 | 59.4 | 54.9 | 48.9 |

Long Term A-Weighted Octave Band Analysis Summary (dBA)

| Site ID | Octave Band Center Frequency (Hz) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | **16** | **31.5** | **63** | **125** | **250** | **500** | **1000** | **2000** | **4000** | **8000** |
| **May 2 – 5** | | | | | | | | | | |
| **MP-2** | 3.4 | 20.0 | 33.2 | 38.3 | 42.4 | 45.2 | 48.9 | 41.5 | 35.8 | 27.2 |

ASSESSMENT OF POTENTIAL IMPACTS

Construction Noise

There will be temporary noise impacts during Project construction. These impacts will vary with the specific construction activities but will be temporary and transient. Equipment and vehicle idling will be minimized, and construction vehicle traffic will be timed and routed in order to

minimize potential noise impacts on the local community. All construction activities will be conducted in accordance with the applicable state and local hourly restrictions on such activities.

Operational Noise

Noise modeling has been conducted to predict the sound levels resulting from the operation of the Project at the property line and at nearby sensitive receptors. The noise modeling was conducted using Cadna-A, which accounts for site topography and the presence of intervening topographical features and structures to predict the propagation of sound from numerous sound sources. A terrain model was built using the proposed Project site grading and the Project sound sources were placed into the model at their proposed locations at their design sound power levels.

The primary noise producing sources during Project operation will be the BESS containers, the power inverters, and the transformers. Representative sound power levels for each proposed source were placed into the model at their proposed locations. Since the sound producing equipment was assumed to be continuously operating, the $L_{90}$ (background level) and the $L_{eq}$ (equivalent constant level) of the proposed equipment are the same for the purposes of this assessment.

Cadna-A® allows the user to place receptors at selected locations and predicts sound levels at those specific receptor locations. For this analysis, specific receptors were placed at the monitoring locations specified above, as well as at the closest exterior walls of the nearest residential receptor (RR-1) and the nearest commercial receptor (CR-1).

To estimate interior sound levels at residential and commercial receptors (with open windows) for comparison to NYC Noise Code thresholds, an additional reduction of 10 A-weighted decibels can be applied to the model results, which are based on receptor points

conservatively placed at the nearest point on the exterior wall of the receiving building (Locher et al, 2018).

The model also calculated sound levels for the surrounding area, using a 10-foot receptor grid, with a receptor height of 5.1 feet (representative of average ear height).

The results of the modeling are summarized in the following table:

Results of Noise Modeling

| Site ID | Ambient Sound Level ($LA_{90}$)* | BESS Sound Level (dBA) | Combined Sound Level (dBA) | Sound Level Increase (dBA) |
|---|---|---|---|---|
| **Early Morning (7 AM – 8 AM)** | | | | |
| **MP-2** | 56.1 | 56.8 | 59.5 | 3.4 |
| **RR-1** | 55.3 | 59.8 | 61.1 | 5.8 |
| **CR-1** | 55.3 | 58.2 | 60.0 | 4.7 |
| **Late Morning (10 AM – 11 AM)** | | | | |
| **MP-2** | 51.1 | 56.8 | 57.8 | 6.7 |
| **RR-1** | 51.6 | 59.8 | 60.4 | 8.8 |
| **CR-1** | 51.6 | 58.2 | 59.1 | 7.5 |
| **Afternoon (4:30 PM – 5:30 PM)** | | | | |
| **MP-2** | 52.5 | 56.8 | 58.2 | 5.7 |
| **RR-1** | 53.1 | 59.8 | 60.6 | 7.5 |
| **CR-1** | 53.1 | 58.2 | 59.4 | 6.3 |
| **Night (10 PM – 11 PM)** | | | | |
| **MP-2** | 56.2 | 56.8 | 59.5 | 3.3 |
| **RR-1** | 55.9 | 59.8 | 61.3 | 5.4 |
| **CR-1** | 55.9 | 58.2 | 60.2 | 4.3 |

The results of the noise modeling predicted that the Project will likely create noise increases (over 6 dBA) and have the potential to affect neighboring residences near the property line. Therefore, noise mitigation will be required to comply with the New York City Noise Code requirements and NYSDEC Guidelines. The noise modeling was repeated to evaluate the effectiveness of noise barrier walls on reducing the noise impact from the Project during operation.

The following tables show the results of the noise modeling with the addition of noise walls. The modeled barrier walls are 8 feet high and placed along the south, east, and north interior perimeter of the site access road, with an assumed reflection loss of 5 dB.

Cadna-A Modeling Octave Band Sound Level Results (dBA) – Exterior w/Noise Walls

| Site ID | Octave Band Center Frequency (Hz) | | | | | | | | | Total dBA |
|---|---|---|---|---|---|---|---|---|---|---|
| | 31.5 | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | 8000 | |
| **MP-2** | -5.1 | 7.9 | 28.1 | 28.0 | 38.5 | 47.3 | 45.9 | 41.2 | 19.2 | 50.6 |
| **RR-1** | -2.9 | 10.1 | 30.3 | 31.8 | 41.8 | 50.4 | 50.0 | 46.8 | 27.5 | 54.4 |
| **CR-1** | -4.2 | 8.9 | 29.2 | 30.0 | 40.3 | 49.1 | 48.6 | 45.0 | 25.5 | 53.0 |

Cadna-A Modeling Octave Band Sound Level Results (dBA) – Interior w/Noise Walls

| Site ID | Octave Band Center Frequency (Hz) | | | | | | | | | Total dBA |
|---|---|---|---|---|---|---|---|---|---|---|
| | 31.5 | 63 | 125 | 250 | 500 | 1000 | 2000 | 4000 | 8000 | |
| **RR-1** | -12.9 | 0.1 | 20.3 | 21.8 | 31.8 | 40.4 | 40.0 | 36.8 | 17.5 | 44.4 |
| **CR-1** | -14.2 | -1.1 | 19.2 | 20.0 | 30.3 | 39.1 | 38.6 | 35.0 | 15.5 | 43.0 |

Cadna-A Modeling Results Sound Levels – With Noise Walls

| Site ID | Ambient Sound Level ($LA_{90}$)* | BESS Sound Level (dBA) | Combined Sound Level (dBA) | Sound Level Increase (dBA) |
|---|---|---|---|---|
| **Early Morning (7 AM – 8 AM)** | | | | |
| **MP-2** | 56.1 | 50.6 | 57.2 | 1.1 |
| **RR-1** | 55.3 | 54.4 | 57.9 | 2.6 |
| **CR-1** | 55.3 | 53.0 | 57.3 | 2.0 |
| **Late Morning (10 AM – 11 AM)** | | | | |
| **MP-2** | 51.1 | 50.6 | 53.9 | 2.8 |
| **RR-1** | 51.6 | 54.4 | 56.2 | 4.6 |
| **CR-1** | 51.6 | 53.0 | 55.4 | 3.8 |
| **Afternoon (4:30 PM – 5:30 PM)** | | | | |
| **MP-2** | 52.5 | 50.6 | 54.7 | 2.2 |
| **RR-1** | 53.1 | 54.4 | 56.8 | 3.7 |
| **CR-1** | 53.1 | 53.0 | 56.1 | 3.0 |
| **Night (10 PM – 11 PM)** | | | | |

| | | | | |
|---|---|---|---|---|
| **MP-2** | 56.2 | 50.6 | 57.3 | 1.1 |
| **RR-1** | 55.9 | 54.4 | 58.2 | 2.3 |
| **CR-1** | 55.9 | 53.0 | 57.7 | 1.8 |

As shown on the preceding tables, the addition of noise walls significantly reduces the sound level increases at the monitoring locations to the point where there will not be adverse impacts to adjacent residential and commercial properties. Based on the results of this sound assessment, the Project will comply with the applicable New York City noise control requirements and NYSDEC Guidelines during operation.

## VII. DISCUSSION

### A. THE COMMISSION SHOULD GRANT HECATE GRID SWIFTSURE LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE PROJECT

#### i. Hecate Grid Swiftsure LLC has the Experience and Financial Resources to Construct, Own and Operate the Project.

Under PSL Section 68 and the criteria listed in 16 NYCRR 21.3, Hecate Grid Swiftsure LLC, in its application for a CPCN, must demonstrate that the Project "is convenient and necessary for the public service." Specifically, Hecate Grid Swiftsure LLC must provide to the Commission a description of the Project to be constructed and of the manner in which the cost of the Project is to be financed, as well as "evidence of economic feasibility of the enterprise, proof of the applicant's ability to finance the project and to render adequate service and that the proposal is in the public interest."

By this Verified Petition, Hecate Grid Swiftsure LLC has presented a detailed description of the Project and provided the necessary proof of incorporation. The Petition outlines and describes the financing of the project and establishes that Hecate Grid LLC is an experienced developer and operator of energy storage projects. Based on the documentation provided, the

Applicant has established the economic wherewithal to finance the Project and to render safe, adequate and reliable services. Important public benefits will result from this project, including providing reliable and clean energy at peak demand, while meeting the State's public policy goals for increased renewable energy and developing a clean energy grid. "The CLCPA requires, inter alia, that a State agency, in considering and issuing permits, licenses, and other administrative approvals and decisions, consider whether such decisions are 'inconsistent with or will interfere with the attainment of statewide greenhouse gas emissions limits.' . . . In this case, granting a CPCN to construct and operate the Project will directly further the CLCPA's goal of achieving 3,000 MW of statewide energy storage capacity by 2030."[2]

Swiftsure will be operating in a competitive wholesale market and will not pose a cost risk to ratepayers. Hecate Grid Swiftsure LLC respectfully requests that the Commission grant the project a CPCN pursuant to Public Service Law § 68.

### ii. Certified Charter and Verification of Municipal Consents

PSL § 68(1) requires that, before the Commission can issue a CPCN, the applicant must submit "a certified copy of the charter of such corporation."[3] A copy of Petitioner's Certificate of Incorporation, certified by the New York Secretary of State, is attached hereto as Exhibit A. Database records for Petitioner demonstrating that the company is registered to do business in New York and that it has properly registered an agent for service of process is attached hereto as Exhibit D.

PSL § 68 also requires that Petitioner also provide a "verified statement of the president and secretary of the corporation, showing that it has received the required franchise consent of the

[2] Case 21-E-0628, Astoria Generating Company, L. P., Order Granting Certificate of Public Convenience and Necessity (June 16, 2022).

[3] *See* Cassadaga Order, at 12.

proper municipal authorities."[4] This has been interpreted by the Commission to include potential municipal consents related to the location of facility components in land owned by the municipality or in municipal rights of ways ("ROW").

Petitioner will not provide utility service in any territory and does not require any municipal right or privilege under franchise. Petitioner has included as Exhibit C a verified statement of its president and secretary that the consents of the proper municipal authorities necessary for issuance of a CPCN have or will be received.

Petitioner is in the process of obtaining a Revocable Consent from NYC. Based on recent precedent, the Commission need not wait for Petitioner to receive all requisite consents to commence review of this Petition.[16] On November 5, 2020, New York Transco LLC filed a petition (the "Transco Petition") for a Certificate of Public Convenience and Necessity ("CPCN") to allow the exercise of rights and privileges granted under certain municipal road crossing agreements associated with development of the Knickerbocker to Pleasant Valley transmission upgrade project. In the Transco Petition, petitioner stated that it was still in the process of obtaining 5 of 11 road crossing agreements, which would be filed upon receipt.[17] Despite not having obtained all requisite municipal consents, the proceeding continued with a public statement hearing being held and a ruling on process issued. After issuance of the ruling on process, petitioner filed the remaining RUAs and a One-Commissioner Order granting a CPCN was issued four days later. Here, Petitioner will obtain one Revocable Consent from NYC. Accordingly, the Commission can reasonably commence review of the instant Petition, including holding a public statement hearing and ruling on process, prior to submission of remaining municipal consents.

[4] PSL § 68(1).

### iii. Compliance with 16 NYCRR Part 21

Following are responses to the relevant sections of 16 NYCRR § 21.2:

(a) The petition shall state the names of all corporations, including municipalities, rendering the kind of service for which the petitioner requests authority in the territory covered by the application.

*Response: Petitioner is not proposing to render utility service in any territory. As a result, the information required by this subsection is inapplicable.*

(b) The petition shall be accompanied by a certified copy of the franchise granted by the municipality or municipalities in which the construction is proposed or authority is to be exercised, with a verified statement by a responsible official of the petitioner that all municipal consents have been secured that are required by law. Petitions by waterworks corporations shall be accompanied by a certified copy of the order of the Water Power and Control Commission authorizing construction.

*Response: No franchises have been or will be granted to or by the municipalities in which the Facility will be constructed. Therefore, no certified copies of franchises need to be submitted.*

(c) If the petitioner has previously secured authority from the commission to exercise the powers granted under a prior franchise that has expired, and has plant in operation, the petitioner shall request only authority to exercise the rights and privileges granted by the new franchise.

*Response: The Petitioner has not previously secured authority to exercise powers granted under a prior franchise that has expired; therefore, this provision does not apply.*

(d) If the petitioner has been granted any permit, license or authority by any Federal authority relative to the pending petition, the petitioner shall include a certified copy of such original permit, license, or authority and all amendments thereto.

*Response: No federal permits are required for the Project*.

Following are responses to the relevant sections of 16 NYCRR § 21.3:

a) Description and population of the territory within which it proposes to exercise authority granted by the franchise or consent and to begin construction, including the names of all cities, towns and villages; also the dates when construction will begin and service will be provided.

*Response: Petitioner does not propose to exercise authority granted by a franchise in any territory, so this provision is not applicable*.

(b) Description of the plant and system to be constructed and the estimated cost thereof.

*Response: See Section III, above, and Exhibit B, Attachment A, for a description of the plant and system. Hecate Grid Swiftsure estimates total costs of the Project at approximately $300 Million.*

(c) The manner in which the cost is to be financed. If the municipality is to be bonded, there shall be submitted a certified copy of the proposition submitted to the voters and the vote thereon.

*Response: Petitioner expects to finance through a combination of debt, equity and tax equity. Hecate Grid closed a $100 Million project debt financing in January of 2023 and is in the process of raising additional equity and debt for near-term pipeline projects. Hecate Grid is currently backed by equity funding from InfraRed Capital Partners, a $14 Billion AUM infrastructure fund based in the U.K.*

(d) The rates to be charged for the classes of service rendered.

*Response: Petitioner is not proposing to provide services for which retail rates would be charged, making this section inapplicable*.

(e) Estimated revenues to be derived from operations covered by the petition, and the estimated expenses of such operations, each to be complete and in detail for each of the first three years of service; also estimate made from an actual survey of the territory of the number of prospective customers at the end of the first, second and third years of service showing for each date the number of prospective customers in the residential, commercial and industrial classes of service.

*Response: The estimated revenues to be derived from the Project will generally be derived from providing grid reliability and capacity services to the NYISO grid. Petitioner does not propose to provide service to residential, commercial or industrial customers in any territory. Therefore, the latter half of this provision is inapplicable.*

(f) The facts upon which it relies to entitle it to exercise the rights and privileges petitioned for, including evidence of the economic feasibility of the enterprise, proof of the applicant's ability to finance the project and to render adequate service and that the proposal is in the public interest.

*Response: See Section A.i, above, for information responsive to this provision*.

(g) Where similar services are being rendered in all or part of the area proposed to be served, the public need for the proposed service including, but not limited to: (1) the adequacy of the existing service to meet the reasonable needs of the public in the territory involved; (2) the ability and willingness of the present operator(s) to provide such reasonably adequate service; and (3) the degree of competition desirable or required by the public interest.

*Response: Petitioner is not proposing to provide services in this manner; these provisions regarding the availability of other services in this territory are inapplicable*.

## B. COMMISSION SHOULD ISSUE AN ORDER PROVIDING FOR LIGHTENED REGULATION OF THE PROJECT

Hecate Grid Swiftsure LLC respectfully requests that the Project be regulated under a lightened regulatory regime as has been consistently applied by the Commission to independent power producers in the wholesale electric market for over twenty years.[5]

The Commission issued an Order Granting Certificate of Public Convenience and Necessity and Providing for Lightened Regulation to Ravenswood Development,[6] noting that "the Commission thus concluded previously that new forms of electric service providers participating in competitive markets would be lightly regulated."[7] Furthermore, it should be noted that "notwithstanding that it is lightly regulated, [competitive wholesale providers are] reminded that it and any other entities that exercised control over Storage Facility Operations remain subject to the PSL with respect to matters such as enforcement, investigation, safety, reliability, and system improvement."[8]

Based on the above precedence in similar proceedings, Petitioner respectfully requests that the Project be regulated under a lightened regulatory regime as has been consistently applied by the Commission to independent power producers in the wholesale market.

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[5] Id.; Case 19-E-0122, Ravenswood Development, LLC, Order Granting Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (October 17, 2019) (See also Petition citing Case 10-E-0042, *AES ES Westover,* LLC, Order Providing for Lightened Regulation and Approving Financing (May 14, 2010) (phased energy storage project); Case 11-E-0593, *Cricket Valley Energy Center, LLC*, Order Granting a Certificate of Public Convenience and Necessity and Establishing Lightened Ratemaking Regulation (Feb. 14, 2013); Case 05-E-0098, *Caithness Long Island, LLC,* Order Granting a Certificate of Public Convenience and Necessity, Providing for Lightened Regulation and Approving Financing (Nov. 15, 2006); Case 04-E-0428, *NYC Energy, LLC*, Order Granting A Certificate of Public Convenience and Necessity and Providing for Lightened Regulation (July 9, 2004); Case 01-E-1716, *KeySpan-Port Jefferson Energy Center, LLC*, Order Providing for Lightened Regulation (March 7, 2002); Case 99-E-0148, *AES Eastern Energy, L.P. and AES* 28 *Creative Resources, L.P.*, Order Providing for Lightened Regulation (April 23, 1999); Case 98- E-1670, *Carr Street Generating Station, L.P.*, Order Providing for Lightened Regulation (April 23, 1999); Case 91-E-0350, *Wallkill Generating Company, L.P.*, Order Establishing Regulatory Regime (April 11, 1994)).")

[6] Case 19-E-0122, Ravenswood Development LLC (October 17, 2019).

[7] Id. at p. 29

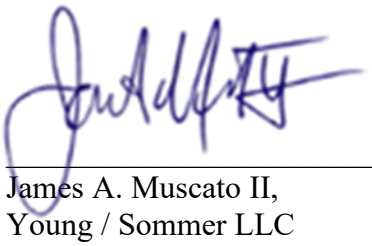
[8] Id. at p. 33

## VIII. CONCLUSION

Based on the foregoing, Petitioner requests that the Commission find that the construction, operation, and maintenance of the storage facility will not result in significant environmental impacts and therefore issue an Order (1) granting a CPCN pursuant to PSL Section 68; (2) providing for lightened regulation, and (3) directing that the public hearing required by PSL Section 68 be held without oral testimony.

Dated: July 31, 2023

Respectfully submitted,



James A. Muscato II,
Young / Sommer LLC

*Attorneys for Hecate Grid Swiftsure LLC*

Accompanying Documents

Exhibit A – Corporate Formation Documents
Exhibit B – Full Environmental Assessment Form (with Attachments A-G)
Exhibit C – Verified Statement of Municipal Consent
Exhibit D – NY Registration