



**VERIFIED PETITION OF CHAMPLAIN HUDSON POWER EXPRESS, INC. TO AMEND
CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

DECEMBER 06, 2019

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**BEFORE THE
PUBLIC SERVICE COMMISSION
STATE OF NEW YORK**

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

Case No. 10-T-0139

**APPLICATION OF CHAMPLAIN HUDSON POWER EXPRESS, INC. AND CHPE
PROPERTIES, INC. FOR AN AMENDMENT TO CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED**

I. INTRODUCTION

Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (the “Applicants”) submit this Application (this or the “Application”) to the Public Service Commission (the “Commission”) for an Amendment to the Certificate of Environmental Compatibility and Public Need (“Certificate”) issued in this proceeding on April 18, 2013. The Certificate authorized the Applicants to build, maintain, and operate the Champlain Hudson Power Express Project (the “Project”). Notice of this application has been provided as required by § 122(2) of the Public Service Law (the “PSL”) and the Commission’s rules. *See* 16 NYCRR § 85-2.10.¹

1. In this Application, the Applicants are proposing certain modifications to (a) the route of the Project cables as contemplated and approved pursuant to the Certificate (“the Certified Route”) and (b) the site of the Project converter station as contemplated and approved pursuant to the Certificate (together, the “Preferred Alternatives”). The proposed Preferred Alternatives will allow the Applicants to, among other things, avoid shallow water installation challenges, reduce rock removal and wetland impacts, eliminate disruption to urban revitalization in downtown

¹ Affidavits of Service and Affidavits of Publication are being filed under separate cover.

Schenectady, forego reliance on an aging railroad bridge, accommodate community concerns, and simplify the design of the Converter Station and the connecting electrical facilities. These eight Preferred Alternatives represent the addition of approximately 5.8 linear miles or an overall increase in project length of less than 2%.² The locations of these Preferred Alternatives are provided in maps at scales of 1:250,000 (Appendix A) and 1:24,000 (Appendix B) as well as aerial photographs (Appendix C).³ Each of these alternatives, as well as the associated justifications, are described and discussed in this Application.⁴ When viewed individually and in the aggregate, the Preferred Alternatives do not present either a material increase in any environmental impact or a substantial change to the location of the Project facilities. Therefore, the Commission retains the discretion to act on this Application without scheduling a hearing (PSL §123[2]).⁵

2. On March 30, 2010, the Applicants submitted the original application (the “Original Application”) and initiated a three-year process that culminated with the issuance of the Order

² The route modifications affect 16 New York municipalities (the Towns of Putnam, Dresden, Whitehall, Fort Ann, Glenville, Rotterdam, Bethlehem, Catskill, Stony Point, Haverstraw, and Clarkstown, New York City, and the Villages of Scotia, Catskill, Haverstraw, and West Haverstraw). With the exception of Scotia, all of these municipalities were previously identified as communities hosting the Project. The vast majority of the route, which includes 22 municipalities, as well as all sections of the Hudson, Harlem, and East Rivers and the vast majority of Lake Champlain (approximately 200 miles), have no route changes proposed.

³ On aerial photography maps (Appendix 3), a supplementary Allowed Deviation Zone (see Certificate Condition 3) is depicted which would be in addition to that associated with the Certified Route. The Appendix A maps utilize USGS mapping instead of NYSDOT mapping as the regulations prescribe. The Applicants are requesting that the Commission waive the requirement of NYSDOT maps and accept the use of USGS maps as they provide more information in comparison to the NYSDOT maps (see Transmittal Letter accompanying this Application). With respect to the Allowed Deviation Zone approved by the Certificate for the Astoria Rainey Cable, it should be noted that the undoubted intention was to associate the permissible cable placement area with the roadway rights-of-way as colored in on pages 555 and 556 of Exhibit 2, with the succeeding maps being offered to provide additional detail regarding the urban context.

⁴ Originally, the Applicants intended to submit these changes as part of the Environmental Management and Construction Plan process (see, e.g., Certificate Conditions 156[a] and 157). However, the Applicants determined that, in order to obtain definitive approvals at the Commission level in advance of a multi-billion dollar construction financing, processing the changes as amendments was the more prudent course.

⁵ Case 15-T-0384: *Application of Petition to Amend Niagara Mohawk Power Corporation’s, d/b/a National Grid, Certificate of Environmental Compatibility and Public Need Granted on September 4, 1986 in Case 70346 to Authorize Construction and Operation of a New 115 kV Three Ring Bus Station, Two 115 kV Transmission Loop Taps, and an All-dielectric Self-supporting Fiber Optic Cable in the Town of Fenner, Madison County.* (September 15, 2015), at 3 (stating “[n]o hearing is required by the Commission here since the proposed changes in the facility will not materially increase the environmental impacts or substantially change the location of the facility.”)

granting the Certificate (the “Order”). The Applicants carried their burden of demonstrating that the Project would serve the public interest, convenience, and necessity, and the Commission made all of the findings that, by statute, must accompany issuance of a certificate pursuant to Article VII of the PSL (PSL §126). Furthermore, during that process leading up to the eventual Order, the Applicants successfully built a coalition of affected parties, and, after a significant and productive process, that coalition produced the joint proposal of settlement that formed the basis of the Commission’s favorable decision (the “Joint Proposal”). This Application mirrors the Original Application process with respect to both making the case for favorable Commission action and the building of a stakeholder consensus.

3. With respect to the Project’s public benefits, it should be recalled that, on page 100 of the Order, the Commission took note of the Project’s “unique and substantial benefits” and concluded that it would “advance major energy and policy goals” of both New York State (the “State”) and the City of New York (“NYC”). The Commission also concluded that the Project would provide a “significant amount of additional capacity that would enhance energy security” in NYC and, through the import of “renewable energy,” would increase supply diversity and enhance system reliability (Order, page 97). In addition, the Commission noted that the Project would serve to facilitate proper functioning of the energy markets in the State and would afford “price stability benefits” (Order, page 98). At the heart of the Commission’s determination to grant the Certificate was the conclusion that “the [Project’s] expected emission reductions are a substantial environmental benefit, a benefit that is expected to be enduring.” (Order, page 52)

4. Since the Certificate was issued, the need for urgent and substantial efforts to address and reduce the amount of greenhouse gases (“GHG”) released into the atmosphere due to human activity has become increasingly evident. In 2019, both NYC and the State adopted major legislative programs aimed at curbing GHG. On April 18, 2019, the NYC Council adopted the Climate Mobilization Act, which includes measures that will reduce the carbon footprint of large commercial buildings.⁶ Four days later, on Earth Day, Mayor DeBlasio publicly announced that his administration had decided to supply 100% of the NYC governmental electricity demand with

⁶ Local Law 97 of 2019; NYC Charter Chapter 26 Section 651; NYC Code, Title 28, Chapter 3, Article 320; NYC Code, Title 28, Chapter 3, Article 321.

renewable hydropower transmitted from Canada to NYC.⁷ Following the Mayor’s remarks, Daniel Zarrilli, Director of OneNYC, stated that NYC expected to begin relying on Canadian hydropower within five years.⁸

5. On July 18, 2019, Governor Cuomo signed into law the Climate Leadership and Community Protection Act, the most ambitious effort to curtail GHG emissions adopted to date by any state.⁹ This landmark legislation will require the deployment in the State of very significant amounts of new renewable energy in order to meet the goal of having 70% of the State’s energy needs supplied by renewable energy by 2030. The urgency that prompted these initiatives effectively mandates that completion of the financing of the construction of the Project (the “Closing”) take place in the second half of 2020, which then will allow for the commencement of Project construction in 2021 with an in-service date of early 2025.

6. It should also be noted that the commencement of Project construction in 2021 will coincide with the retirement of the Indian Point Energy Center, an event that will remove 2,000 MW of GHG-free generation from downstate and is expected to foster increased reliance on fossil fuel generation downstate unless new clean energy solutions step up in response.¹⁰ Moreover, the State is currently in the process of implementing new NOx regulations intended to reduce emissions from fossil fuel plants (6 NYCRR Subpart 227-3), an initiative that a NYISO modelling scenario indicated could lead to the retirement of over 3,000 MW of downstate thermal plants by 2025.¹¹ One of the Project’s most important benefits is its ability to deliver renewable energy directly into downstate New York, an area that already relies on fossil generation for 70% of its

⁷ The relevant portion of the press release reads as follows: “The City government of New York City, in an average day, uses as much electricity as everybody in the state of Vermont. And within the next five years, we will convert all of our electricity that the City government uses to renewable sources. All of it will come from renewable energy. That electricity will come down to us – it’s zero-emission electricity coming to us from Canada, from Quebec, hydropower that is being produced right now.” <https://www1.nyc.gov/office-of-the-mayor/news/211-19/transcript-mayor-deblasio-new-york-city-s-green-new-deal>.

⁸ <https://www1.nyc.gov/office-of-the-mayor/news/211-19/transcript-mayor-de-blasio-new-york-city-s-green-new-deal>

⁹ <https://www.governor.ny.gov/news/governor-cuomo-executes-nations-largest-offshore-wind-agreement-and-signs-historic-climate>

¹⁰ <https://www.lohud.com/story/news/local/indian-point/2019/04/03/indian-point-shutdown-natural-gas/3340678002/>

¹¹ NYISO CRP (2019-2028) Presentation to Management Committee, May 20, 2019

electricity.¹² Finally, the need for prompt and effective action regarding GHG is constantly reiterated and reinforced by studies and reports, including the recently released United Nations Emissions Gap Report 2019 which concludes, “GHG emissions continue to rise, despite scientific warnings and political commitments.”¹³

7. With respect to developing consensus, it should be recalled that the signatories to the Joint Proposal included the Department of Public Service (the “NYSDPS”); Department of Environmental Conservation (the “NYSDEC”); Department of State; Department of Transportation (the “NYSDOT”); Department of Agriculture and Markets; Office of Parks, Recreation, and Historic Preservation; the Adirondack Park Agency; the Cities of New York and Yonkers; the Palisades Interstate Park Commission; Riverkeeper, Inc.; Scenic Hudson, Inc.; the N.Y.S. Council of Trout Unlimited; and Vermont Electric Power Company, Inc.. Each and every State Agency that actively participated in the original Article VII proceeding joined in the Joint Proposal.

8. Since the issuance of the Certificate and in preparation for the filing of the Application, the Applicants have worked diligently to sustain and expand this consensus with respect to those public and private parties that might be affected by the Preferred Alternatives. With respect to these parties, the Applicants have spent nearly two years proactively communicating with, and listening to feedback from, the communities within which the Preferred Alternatives are now proposed (the “Host Municipalities”). This outreach succeeded in securing public resolutions of support of the Preferred Alternatives and of the Project itself from fourteen of the Host Municipalities, and copies of these resolutions are attached hereto as Appendix D.¹⁴ These resolutions were passed after the completion of significant public process within these municipalities, including presentations by the Applicants, question and answer sessions, public hearings, and, ultimately, municipal board-level votes in support of the Preferred Alternatives. It should also be noted that the Applicants have provided detailed briefings regarding the Preferred

¹² NYISO Power Trends, 2019, p. 10.

¹³ <https://www.unenvironment.org/resources/emissions-gap-report-2018>

¹⁴ The Applicants are engaged in securing resolutions of support from the Town of Catskill for a 0.1 mile section of the route and from New York City and the record will be supplemented accordingly.

Alternatives during recent meetings of the Environmental Trust Governance Committee set up in accordance with Certificate Condition 163 and have met with hundreds of interested stakeholders to discuss the Preferred Alternatives.¹⁵

9. With respect to land control, the vast majority of the Preferred Alternatives are sited within road and railroad rights-of-ways (“ROW”). In addition, the Applicants have coordinated with the owners of these road ROWs (primarily State and Town jurisdictions) and railroads and they are fully informed of the routing of the Preferred Alternatives within their ROWs. The Preferred Alternatives also travel through and under thirteen private parcels. The Applicants have secured options or written agreements to install the cables on nine of these parcels and are currently negotiating with four owners to secure similar agreements. A list of these land agreements is provided in Appendix E.

10. The case for the Project meeting all of the legal standards set forth by Section 126 of the PSL was persuasive in 2013; in view of the actions taken by the State and NYC since that event, both with respect to the Project and generally with respect to GHG, the case has only become stronger. Similarly, just as the parties to the Joint Proposal were able to form a consensus in favor of issuing the Certificate, today the Host Municipalities support favorable Commission action with respect to the Project. For all of the reasons set forth herein, the Applicants respectfully urge the Commission to conduct an expeditious review of the Application and to conclude that review with an order approving the Preferred Alternatives.

11. The Applicants also respectfully urge the Commission to act upon this Application in as timely a manner as possible. Any extended period of review in advance of final Commission action regarding this Application could jeopardize the prospects for the success of the very ambitious GHG initiatives that have recently been enacted into law by both the State and NYC. To effectively contribute to these initiatives, the Applicants must complete the Closing as early as possible in 2020, and this scheduling is reinforced by the stark realities of the ongoing 2019 class year facility study (“CYFS”) process being conducted by the New York Independent System Operator (“NYISO”).

¹⁵ CHPE provided briefings to members of the Environmental Trust Committee regarding the impending Application on July 25, 2019, September 24, 2019 and November 15, 2019. The membership in this Committee includes representatives from NYS DPS, NY DOS, NYS DEC, NYC, Adirondack Park Agency, Trout Unlimited, Riverkeeper, Scenic Hudson and the Applicants.

12. The NYISO has publicly predicted that the CYFS 2019 process will conclude in August, 2020, and the conclusion of any CYFS can and often does impose on participants a significant financial burden in the form of a requirement that security be posted to ensure the funding of upgrades to the power grid associated with a participant's facilities. The Project has participated in three CYFSs without posting security and is currently a participant in CYFS 2019. Based upon its experience as a participant in CYFS 2017 and information provided by NYISO in May, 2019, CHPE is confident that the amount of security that it will be required to post within approximately 30 days of the completion of CYFS 2019 will amount to a minimum of \$175,000,000.¹⁶ In the absence of favorable action by the Commission on this Application, the Closing cannot take place, and the failure to post the required security would push the Project into the succeeding CYFS cycle and set back the Project's construction and in-service scheduling for a year if not more (CYFSs have taken more than two years to complete). If the Project were to obtain from the NYISO its rights to interconnect to the power grid in the CYFS succeeding CYFS 2019, the Applicants believe that the Project in-service date would be delayed by at least one year into 2026. In any and all events, the lack of a decision on the Application before the end of August 2020 is likely to make it difficult to meet the aggressive time frames set by the City of New York for the procurement of renewable energy supply to meet governmental requirements by 2025.

13. The Applicants urge that, in acting upon the Application, the Commission should address the fact that approval of the maps showing the Preferred Alternatives potentially could render obsolete the texts of certain of the Certificate Conditions addressing Project geography. In order to harmonize the Order with the order acting upon this Application, the Applicants respectfully request that the Commission include in its Order the following:

We note that the Amendment to the Certificate approved by us today creates some potential inconsistencies between aspects or locations of certain Project facilities as shown on the newly-approved maps and the narrative descriptions of such facilities as they appear in the following Certificate Conditions: 1 (general route description), 2 (reference to Appendix B maps), 21 (resort to Luyster Creek property for converter station site), 91 (ROW maintenance plan for potential Karner blue butterfly and frosted elfin butterfly habitat), 93 (in-water routing in lower Lake Champlain), and 121 (details regarding interconnection arrangements at Astoria). For the avoidance of doubt, those narrative descriptions are to be deemed updated and amended as may be necessary in order

¹⁶ The estimated class year 2017-2 cost allocations for CHPE were \$175.8 Million per the NYISO notice dated May 16, 2019.

to conform them to the relevant As-built Design Drawings filed pursuant to Certificate Condition 139(b) following construction.

14. In furtherance of an expeditious process to conclude no later than August 2020, the Applicants request that an Administrative Law Judge (“ALJ”) be assigned to this proceeding as soon as possible so that a suitable procedural schedule can be established.

II. DESCRIPTION OF PREFERRED ALTERNATIVES

15. The Applicants are seeking an amendment to the Certificate to allow for eight Preferred Alternatives to the Certified Route, as shown on the maps attached to this Application as Appendices A through C, as well as the potential relocation of the Converter Station to an adjacent site to the north of the originally-certified site.¹⁷

16. The detailed discussion presented in this section of the Petition provides the background to and justification for the requested potential modifications and addresses the associated environmental impacts.¹⁸ These proposed changes are principally driven by engineering, environmental, and landowner/stakeholder considerations that have been identified as the Applicants have refined the design of the Project. As noted in the first paragraph of the preceding section of this Petition, implementing the proposed Preferred Alternatives will allow the Applicants to, among other things, avoid shallow water engineering challenges, reduce rock removal and wetland impacts, eliminate disruption to downtown Schenectady, forego reliance on an aging railroad bridge, accommodate community concerns, and simplify the design of the Converter Station and the connecting electrical facilities. As also noted in the preceding section, there is support for the Preferred Alternatives by the municipalities involved (see Appendix D), with formal expressions of support from the two remaining municipalities expected in due course.

¹⁷ The Applicants have characterized all of the proposed modifications as amendments for consistency purposes and ease of review by the Commission. The Commission may find that some of the proposed route changes can be properly addressed in the Project’s Environmental Management and Construction Plan (“EM&CP”) without formal amendments. The Applicants would support such an approach.

¹⁸ The Applicants, by seeking approvals of potential alternatives pursuant to this Application, are not relinquishing their rights granted by the Order to construct Project facilities in the Certified Route. The specific environmental impacts associated with the proposed potential alternatives are reviewed in Appendix G of this document (“Environmental Report”).

17. The rationales that support each of these Preferred Alternatives vary based on their unique facts and circumstances, but they all share the common goal of avoiding and minimizing potential environmental impacts as well as engineering constraints. Furthermore, while the geographic variances presented by the potential modifications differ, the Preferred Alternatives are sited as close as reasonably possible to the Certified Route, as shown on the overlay map in Appendix B. In all events, the Preferred Alternatives have been designed in such a way that the impact avoidance and minimization measures already incorporated in the design process pursuant to the Certificate will continue to accomplish their goal, which is assuring that the Project represents “the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives...”¹⁹

18. The Applicants also assert that the information provided by this Application and the supporting Appendices conclusively demonstrate that no additional testimony is necessary in order for the Commission to act favorably with respect to the Application. It is important to recall that, in the proceedings leading up to issuance of the Order, the ALJs in their May 2012 Ruling determined that there was no material issue of fact regarding any environmental impacts that warranted formal adjudication.²⁰

Putnam Station Alternative (~7.6 miles)

19. Overview: This Preferred Alternative would have the cables exit Lake Champlain at milepost (“MP”) 96.6 of the Certified Route, relying on the horizontal directional drilling technique (“HDD”). The cables would transition from Lake Champlain to the upland route on private property at the terminus of County Road 3 in the Town of Putnam, Washington County. The route would travel almost one mile within the Country Road 3 ROW to the intersection with

¹⁹ PSL §126(1)(c). These measures, captured by the Certificate Conditions, the Best Management Practices, and other operative documents, include relying on existing road and railroad right of ways, avoiding wetlands, streams and agricultural lands, using horizontal directional drilling for certain water crossings and for water to land transitions, and undergrounding cables.

²⁰ See Case 10-T-0139: *Application of Champlain Hudson Power Express, Inc. for a Certificate of Environmental Compatibility and Public Need*, Ruling on Issues (May 8, 2012). The brief two-day evidentiary hearing took testimony on the issues of energy deliverability, the suitability of the Luyster Creek Converter Station site, and Project economics. A decision that no formal adjudication is warranted in connection with the Application does not, of course, preclude the Commission from determining that its decision-making would or must be informed by opinions, questions, and information gathered through a public statement hearing or hearings.

Lake Road, at which point the route would follow Lake Road for approximately 2.2 miles to New York State Route 22 (“Route 22”). The route then would travel within the Route 22 ROW for approximately 4.2 miles before rejoining the Certified Route at MP 101.5. This reconfiguration would result in an additional 7.6 miles of cables within road ROWs in the Towns of Putnam and Dresden, but it would eliminate approximately 4.7 miles of cable installation within Lake Champlain.

20. Reason for Reconfiguration: This Preferred Alternative is being proposed to avoid significant construction challenges associated with installation in a shallow segment of southern Lake Champlain. According to Caldwell Marine International, LLC (“CMI”), the contractor consulted by the Applicants regarding submarine cable installation, the shallow bottom and narrow New York State section of the Lake that hosts the existing route would likely require a very challenging submarine cable installation method involving floating the cables near the surface until positioned at locations where a multi-staged hand jetting operation could be undertaken to bury the cables at a proper depth. CMI expressed skepticism that even this technique would be successful over such a long distance (~4.7 miles), as this technique is typically used over much shorter distances. This analysis was offered to the Applicants after the Certificate was issued pursuant to further development of the Certified Route and represented a departure from an earlier engineering assessment made during the feasibility study stage of the Project development.

21. Analysis: The Putnam Station Preferred Alternative was previously analyzed as an alternative during the original Certificate proceedings.²¹ This analysis concluded that there were no significant differences in terms of environmental impacts between the Certified Route and the Preferred Alternative. The environmental impact analysis depicted in Section III of this Petition, which relies on a refined design and new environmental surveys, supports this conclusion. The vast majority of temporary construction impacts will occur within previously disturbed road ROWs. Wetland impacts have been avoided to the extent feasible and are comparable to those associated with the Certified Route. In addition, where the overland segments of the Project route encounter streams and/or wetlands, the following methods may be used to minimize impacts: (a) flume crossing; (b) dam and pump; (c) HDD or Jack and Bore (“J&B”); and (d) open cut, as discussed in the Project’s Best Management Practices (“BMP”) documentation. The

²¹ Exhibit 98 – Route Reconfiguration in Lake Champlain

implementation of BMPs and the Stormwater Pollution Prevention Plans (“SWPPPs”) will prevent water quality issues. Compared to the Certified Route, there will be 4.7 fewer miles of cable installation in a shallow segment of Lake Champlain. The environmental impact analysis contained in Section III and the previous alternative analysis support a finding that there is no material increase in environmental impacts or substantial change in location.

Fort Ann Alternative (~3.5 miles)

22. Overview: This Preferred Alternative would have the cables transition from the Certified Route at MP 117.6 in the Town of Whitehall, Washington County to the Old Route 4 ROW via an HDD. The route would travel south for approximately 3.4 miles underneath Old Route 4 in Whitehall and Fort Ann before rejoining the Certified Route at MP 120.9 via a second HDD. This reconfiguration would result in an additional 0.1 miles of cables installed within a Town Road versus the Certified Route within the Canadian Pacific railroad (“CP”) ROW.

23. Reason for Reconfiguration: This Preferred Alternative is being proposed primarily to avoid construction in close proximity to numerous wetlands as well as to reduce soil and rock removal activities associated with installing the cables within the CP ROW. In an effort to reduce potential impacts, the Applicants selected rerouting along Old Route 4 as a better alternative because the cables can be installed within a rural road that experiences limited local traffic, is fronted by few residences, and is still in close proximity to the Certified Route within the Railroad ROW.

24. Analysis: The environmental impact analysis contained in Section III indicates that the impacts associated with the Fort Ann Preferred Alternative will be less than those associated with the Certified Route. This Preferred Alternative will largely avoid impacts to environmental resources, because the cable will be installed within, and, in most cases, under a paved road, and an HDD will be utilized to avoid the one notable waterway along this route. Moreover, the Preferred Alternative runs parallel and, in many cases, adjacent to the Certified Route indicating there is no substantial change in location. The environmental impact analysis contained in Section III and the close proximity of the Certified Route to the Preferred Alternative as depicted in Appendix B support a finding that there is no material increase in environmental impacts or a substantial change in location.

Schenectady Alternative (~9.7 miles)

25. Overview: This Preferred Alternative would have the cables depart from the Certified Route within the CP ROW at MP 169.1 in the City of Schenectady, Schenectady County and follow the Pan Am Railways (“Pan AM”) ROW for six (6) miles in a western direction. The route would then cross under the Mohawk River via an HDD, beginning from private property on the north side of the Mohawk River to a NYSDOT roadway ROW on the south side of the River. The cables would then be installed within CSX Transportation (“CSX”) ROW for three (3) miles before rejoining the Certified Route at MP 177.1 in Rotterdam. This reconfiguration would result in an additional 1.8 miles of cables installed primarily in Railroad ROWs in comparison to the Certified Route.

26. Reason for Reconfiguration: This Preferred Alternative is being proposed to take into account the dramatically changing urban context in the City of Schenectady. The Certified Route follows railroad ROWs and Erie Boulevard (built over the former route of the Erie Canal), both of which run through downtown Schenectady. As a result of the development of the Rivers Casino as well as other major projects, both the railroad ROW and the street ROW are likely to be the subject of continued infrastructure work at and below the surface.²² One example of work done recently in the street ROW is the construction of the traffic circle serving the Casino, and examples of work done recently in the railroad ROW are the construction of the new Amtrak passenger station and the elevation of the Nott Street Bridge (Appendix F – Newspaper Articles). The pace of development in the City has not slowed, and the risk that some new public or private initiative would interfere with the buried cables is highly probable and makes this route a significant risk. The Preferred Alternative, which primarily relies on the Pan Am ROW, provides a viable alternative that reduces impacts to both the environment and community, eliminating construction impacts to the downtown area, and mitigating the risk that the cable would have to be relocated in the future.

27. Analysis: The environmental impact analysis contained in Section III indicates that the impacts associated with the Schenectady Preferred Alternative will be less than those associated with the Certified Route. To avoid downtown Schenectady and the extensive new

²² City of Schenectady Comprehensive Plan 2020; <https://www.cityofschenectady.com/196/Comprehensive-Plan>

development that has occurred, the Applicants propose to utilize a section of the Pan Am ROW combined with NYSDOT and CSX ROW, which is the closest practical alternative route to the Certified Route. This Preferred Alternative will largely avoid impacts to environmental resources, because the cable will be installed primarily within previously disturbed railroad ROWs, an HDD will be utilized to cross under the Mohawk River, and this route contains fewer wetlands compared to the Certified Route. As depicted in Appendix B, this Preferred Alternative is expected to reduce environmental impacts and is located as close to the Certified Route as practicable considering all the environmental, infrastructure, and land use constraints within this area.

Selkirk Rail Yard Alternative (~5.3 miles)

28. Overview: This Preferred Alternative would have the cables depart from the Certified Route at MP 194.1 in Bethlehem, Albany County and follow New York Route 32 (Feura Bush Road) for a tenth of a mile before connecting to West Yard Road. After approximately one (1) mile and at the end of West Yard Road, the cables would be installed under a dirt path, crossing approximately 0.5 miles of undeveloped private land owned by CSX to South Albany Road. The cables would continue in the road ROW for 1.6 miles heading east for 0.4 miles upon private land in order to rejoin the CSX ROW. The Preferred Alternative would then parallel the Certified Route within the CSX ROW for approximately 1.5 miles, rejoining the Certified Route at MP 198.1. This Preferred Alternative would result in an additional 0.7 miles of cables being installed primarily in road ROWs and the CSX ROW in comparison to the Certified Route.

29. Reason for Reconfiguration: This Preferred Alternative is being proposed per the request of CSX, the owner of the railroad ROW and Selkirk Yard. CSX officials have advised the Applicants that it is contemplating expansion of this important freight classification yard in the future and therefore must maintain flexibility in an ever-changing rail freight environment. Any expansion would likely require relocation of any cables near the perimeter of the existing trackage. This Preferred Alternative was selected because of its close proximity to the Certified Route, its location within an industrial area, and its proximity to the CSX ROW outside of Selkirk Yard.

30. Analysis: The environmental impact analysis contained in Section III indicates that the impacts associated with the Selkirk Yard Preferred Alternative will be comparable to those associated with the Certified Route. The Preferred Alternative minimizes environmental impacts by installing the cables within previously disturbed roadway and railroad ROWs, utilizing an

existing access road through a forested area, avoiding active agricultural lands via installation along a hedge row, and utilizing HDDs and other Certificate-approved methods to avoid wetland areas and streams to the extent feasible. The proposed location of this Preferred Alternative is as close as feasible to the Certified Route, running parallel and in many cases adjacent thereto, producing only a minimal change in location. The environmental impact analysis contained in Section III and the close proximity of the Certified Route to the Preferred Alternative as depicted in Appendix B support a finding that there is no material increase in environmental impacts or a substantial change in location.

Catskill Creek Alternative (~0.7 miles)

31. Overview: This Preferred Alternative would have the cables depart from the Certified Route at MP 221 in Catskill, Greene County and travel west for approximately 0.1 miles underneath undeveloped land to reach Allen Street. The route would then follow Allen Street for 0.2 miles, at which point an HDD would place the cables under Catskill Creek from Allen Street (north side of Creek) to a private property (south side of Creek). From the private property, the cables would travel across Route 9W and proceed onto Willow Lane prior to accessing a private easement and rejoining the CSX ROW and the Certified Route at MP 221.7.

32. Reason for Reconfiguration: This Preferred Alternative is being proposed per the request of CSX, the bridge owner, which does not want the cables attached to the bridge. Since the Certificate was issued, the Applicants have conducted additional engineering review of this bridge and CSX has advised the Applicants that the existing bridge will need to be replaced during the expected operational life of the Project. To avoid the inevitable significant interruption in Project operations and to comply with CSX's request, the Applicants sought a nearby route that would have minimal impacts on the environment and the community. This Preferred Alternative is being proposed because of its close proximity to the Certified Route, minimal environmental impacts, and reliance on commercial private properties and existing roadways and the CSX ROW.

33. Analysis: The environmental impact analysis contained in Section III indicates that the impacts associated with the Catskill Preferred Alternative will be comparable to those associated with the Certified Route. The Preferred Alternative minimizes environmental impacts by installing within previously disturbed roadway and railroad ROWs, avoiding impacts to Catskill Creek and other streams via HDDs and other approved methods, and avoiding wetland impacts

via careful siting. The location of this Preferred Alternative is as close as feasible to the Certified Route, running parallel and in many cases adjacent thereto, producing only a minimal change in location. The environmental impact analysis contained in Section III and the close proximity of the Certified Route to the Preferred Alternative as depicted in Appendix B support a finding that there is no material increase in environmental impacts or a substantial change in location.

Rockland County Alternative (~8.6 miles)

34. Overview: This Preferred Alternative would have the cables exit the Certified Route at MP 294.9 in Stony Point, Rockland County and transition from the Hudson River to land via an HDD which traverses a private property onto Elm Street. Following Elm Street south for 0.3 miles, the route would connect to New York State Route 9W and travel south through the Town of Stony Point, the Town of Haverstraw, the Villages of West Haverstraw and Haverstraw, and the Town of Clarkstown for approximately seven (7) miles. A land-to-water HDD would be launched from a private property located adjacent to Route 9W and extend under lands of the Palisades Interstate Park Commission for 0.3 miles until the cables reach the Hudson River. The route would rejoin the Certified Route at MP 302. This reconfiguration would result in an additional 0.7 miles of cables installed primarily in road ROWs in comparison to the Certified Route.

35. Reason for Reconfiguration: This Preferred Alternative is proposed in response to construction challenges within the CSX ROW, feedback from CSX, and significant community opposition. Since the Certificate was issued, CSX has publicly announced plans to restore a two-track system in its ROW in Rockland County and has partially implemented this plan. In doing so, CSX has restricted the space available for cable installation, and the remaining areas are further constrained by steep and unstable banks, unstable roadbed, and an existing overhead power transmission line. Residents, community groups, and elected officials also have expressed significant concerns related to installing the cable within the CSX ROW due to potential impacts to residential homes, recreational facilities, and historic sites (Appendix F). Once it became clear that both CSX and the community wanted the Applicants to relocate outside of the CSX ROW, the Applicants undertook an extensive analysis to identify alternatives, eventually selecting Route 9W as the Preferred Alternative. The Preferred Alternative reduces environmental impacts, addresses community and landowner concerns, and mitigates construction challenges.

36. Analysis: The environmental impact analysis contained in Section III indicates that the impacts associated with the Rockland County Preferred Alternative will be comparable to those associated with the Certified Route. The Preferred Alternative minimizes environmental impacts by installing primarily within the State Route 9W ROW, which is a heavily used commercial road generally devoid of environmental resources. HDDs are utilized for river to land transitions and have the added benefit of avoiding any above ground impacts to the two forested properties that are adjacent to the Hudson River. In addition, a bridge attachment is proposed to avoid impacts to Cedar Pond Brook. Taking into consideration the landowner and community concerns with the Certified Route, restrictions on using the Hudson River in this area, and the developed nature of Rockland County, this Preferred Alternative is located as close as feasible to the Certified Route as depicted in Appendix B. Route 9W runs parallel and in many cases adjacent to the Certified Route, indicating there is no substantial change in location.

Astoria Rainey Cable (“ARC”) Preferred Alternative (~3.4 miles)

37. Overview: This Preferred Alternative would have the cables exit the Certified Route at 20th Avenue, where the cables would travel northwest for approximately 0.6 miles to Shore Boulevard. The route would follow Shore Boulevard south for approximately one (1) mile before turning east on Astoria Park South for one (1) block before turning south onto 14th Street. After approximately 0.56 miles, the Preferred Route would connect with the Certified Route at the intersection of 30th Drive. After overlapping the Certified Route for approximately 0.2 miles to the intersection with 31st Drive, the Preferred Alternative would continue approximately 0.8 miles to Broadway, where it would turn to the northwest. After approximately 0.16 miles, the Preferred Alternative would turn southwest to follow Vernon Boulevard. The Preferred Alternative would follow Vernon Boulevard for approximately 0.41 miles before connecting with the Certified Route at the intersection with 35th Avenue, just outside of the Rainey Substation. This reconfiguration would result in a 0.01 mile decrease of cables installed in road ROWs in comparison to the Certified Route.

38. Reason for Reconfiguration: In developing the Certified Route, the Applicants conducted an alternative analysis within a study area bounded to the west by the East River and to the east by Steinway Street (See Joint Proposal Exhibit 98). New York City (“City”) staff provided input on existing city water lines and other City infrastructure, which the Applicants avoided in

selecting what would become the Certified Route. However, recent detailed engineering review and consultations with the New York City Department of Transportation (“NYCDOT”), and Consolidated Edison Company of New York, Inc. (“Con Edison”) have identified other infrastructure within this routing that would pose considerable challenges in terms of co-location. The Applicants have consulted with City staff in order to develop the Preferred Alternative, which both avoids existing infrastructure and shifts construction largely out of heavily populated residential neighborhoods.

39. Analysis: The environmental impact analysis contained in Section III indicates that the impacts associated with the ARC Preferred Alternative are comparable to those associated with the Certified Route. Both routes propose burial of Alternating Current (“AC”) cables under paved City streets in Queens where existing underground infrastructure already exists. The Preferred Alternative route runs through the same Queens neighborhood as the Certified Route and in some stretches uses the same roads. The environmental impact analysis contained in Section III and the close proximity of the Certified Route to the Preferred Alternative as depicted in Appendix B support a finding that there is no material increase in environmental impacts or a substantial or significant change in location.

Converter Station Preferred Alternative

40. Overview: The Preferred Alternative converter station site is located approximately 0.2 miles north of the Certified converter station site, but it is still part of the complex of lands and facilities devoted to energy production for many decades (the “Astoria Complex”). In fact, this Preferred Alternative is surrounded by the Certified Allowed Deviation Zone and was not included as part of the Allowed Deviation Zone per the request of the owner. Both sites were created by the subdivision of the complex undertaken by Con Edison.

41. Reason for Reconfiguration: The Preferred Alternative converter station site recently became available to the Applicants when Eastern Generating Company, Inc., decided to reconfigure its existing fuel farm resulting in the availability of surplus land in the vicinity of the Project’s interconnection point. In general, the Astoria Complex and the shoreline areas to the east are dominated by fossil-fuel generation and associated infrastructure and, due to the State and NYC GHG initiatives described in the preceding section of this Petition, a number of the owners of these facilities are seeking alternative uses other than power production for their land. This

alternative site offers some key advantages in terms of potentially shortening the route for both the Project's HVDC cables within the Complex. By locating the converter station slightly to the north of the Certified Site, a more direct link can potentially be created between the HDD exit point on the East River, the Converter Station itself, and the bus bar at the Astoria East Annex GIS substation.

42. Analysis: This general area contained within the Astoria Complex was previously reviewed for the Certified Route. With the original Converter Station location and the Preferred Alternative location occupying effectively the same general location at the Astoria Complex, the comparison of their respective environmental impacts reveals that they do not differ in kind or degree. The environmental impact analysis contained in Section III and the close proximity of the Certified Converter Station to the Preferred Converter Station as depicted in Appendix B support a finding that there is no material increase in environmental impacts or a substantial or significant change in location.

III. DESCRIPTION OF ENVIRONMENTAL IMPACTS

Route Location Analysis

43. The environmental impacts associated with the Certified Route were thoroughly reviewed by the Commission. The Preferred Alternatives presented in this Route Location Analysis are located entirely on upland areas, utilize the same construction techniques, and generally occupy railroad or road ROWs. Thus, the environmental impact profile is very similar to that of the Certified Route. Many of the environmental resource areas (*e.g.* Geology & Soils, Fisheries, Wildlife, *etc.*) reviewed under this analysis remain unchanged or are substantially similar to those associated with the Certified Route, so an in-depth comparison of those impacts is not indicated or warranted. Where there are potential changes in impacts (wetlands, waterways, land use, historic and archaeological), a detailed analysis is provided.

44. For reference, in the Original Application, *Exhibit 4 – Environmental Impacts* provided an assessment of the entire length of the Certified Route. In support of the Joint Proposal, the Applicants updated this exhibit 4 with *Exhibit 121: Environmental Impacts Associated with Routing Proposed in Joint Proposal (February 7, 2012)* (“Exhibit 121”). The Putnam Station Alternative was further reviewed by parties to the Joint Proposal, as documented in *Exhibit 98 –*

Route Reconfiguration in Lake Champlain. These reports supported the Certificate Conditions and BMPs provided in Appendices C and F, respectively, of the Joint Proposal.

45. The specific environmental impacts associated with the proposed Preferred Alternatives are reviewed in the “Assessment of Environmental Impacts Associated with Preferred Alternatives” report provided in Appendix G of this document (“Environmental Report”). For each of the environment resource areas covered in the Original Application (Exhibit 4) and Exhibit 121, the Environmental Report reaches the following conclusions and determinations (paragraphs 46-58):

46. Construction and Operation (§4.1): The construction methods and operational procedures for the Project are described in Exhibit 4 of the original application as well as Exhibit 121 of the Joint Proposal. For the Preferred Alternatives, the construction methods and operational procedures would not change, as the cables will continue to be buried via excavated trenches or HDD methods.²³ The specific details for cable installation methods and equipment are fully described in the administrative record of this proceeding (“Project Documentation”). Design drawings, including cross-sections of the proposed facilities are provided in Exhibit 5 of the original Application as well as Exhibit 34 - Updated Design Drawings (Attachment H of the Supplement) of the Joint Proposal. The Applicant also submitted BMPs to guide construction activities (e.g. erosion and sediment control; vegetative clearing, general clearing and restoration) as Appendix F of the Joint Proposal. It is expected that these documents will form the basis of the EM&CP that the Applicants must submit for approval prior to construction.

47. Land Use (§4.2): Because the cables will primarily be installed within railroad or roadway ROWs, it is anticipated that the Preferred Alternatives will not directly affect existing or future land uses. In addition, because the cables are to be buried, they should not change the character of the neighborhoods traversed by the Project and will not will adversely affect local or regional land uses, land use planning, or any federal, state, or local public lands. Similar to the Certified Route, some of the Preferred Alternatives are located in the vicinity of Agricultural Districts, but since the vast majority of construction impacts will be contained within ROWs the impacts to agricultural lands will be limited. If construction activities require that work occur on agricultural lands outside of the ROWs, Section I of the Certificate Conditions requires that

²³ As part of a separate amendment filed on September 30, 2019, the Applicants are seeking approval of a modified construction technique for upland trenching which involves the use of a conduit.

appropriate mitigation measures be applied to maintain agricultural viability of agricultural soils, including the designation of an “Agricultural Inspector”.

48. Geology, Topography, and Soils (§4.3): Due to the close proximity of the Preferred Alternatives compared to the Certified Route, the soils regime is expected to be similar if not identical to that previously contemplated. As required by Certificate Condition 67, the Applicants will implement construction measures and procedures to ensure that there are no permanent or significant impacts related to geology or soils. Along the overland route, initial clearing operations would include the removal of soils in the immediate trench area. Erosion controls such as straw bales and silt fencing will be used during construction to minimize storm-water run-off and the erosion of soils and surficial geologic materials, both at the trench and at the soil stockpiles. Upon completion of the installation of the overland cable, the area disturbed by construction activities will be graded to match the original topographic contours and be compatible with surrounding drainage patterns, except at those locations where permanent changes in drainage will be required to prevent erosion that could lead to possible exposure of the cables or where restoration would be contrary to sound ROW management practices.

49. Vegetation and Natural Communities (§4.4): Due to the close proximity of the Preferred Alternatives compared to the Certified Route, the vegetative communities for the alternatives are similar to those found surrounding the Certified Route. Vegetation clearing within the construction zone will be avoided or minimized by implementing BMPs and restoration activities, such as soil stabilization and temporary seeding of disturbed areas, will be undertaken following construction. It is anticipated that vegetation will return to pre-construction conditions in most areas following restoration of the construction area. Due to the location of the cables primarily within existing ROWs, it is not expected that there will be any adverse impacts associated with NYSDEC Natural Heritage Community Occurrences sites.

50. Wetlands and Water Resources (§4.5): Similar to the conclusions from the Certificate, the nature of impacts to wetlands and waterways from the construction and operation of the Preferred Alternatives are expected to be temporary and include both direct impacts, where the edge of the cleared construction corridor traverses a wetland or riparian area, and indirect impacts from vegetation clearing and ground disturbance in adjacent areas. During construction, limited short-term effects on water quality may be caused by localized increases in turbidity and downstream sedimentation resulting from trenching and disturbance within the water body. Where

the overland segments of the Project route encounter streams and/or wetlands, the following methods may be used to minimize impacts: (a) flume crossing; (b) dam and pump; (c) HDD or Jack and Bore; and (d) open cut, as discussed in the Project's BMP documentation. The implementation of BMPs and SWPPPs will minimize water quality issues.

51. Physical and Chemical Characteristics of Major Aquatic Systems (§4.6): One of the proposed configurations (Putnam Station Preferred Alternative) would reduce the impacts to a major aquatic system (*i.e.* Lake Champlain) while there would be no change in impacts to major aquatic systems for the other Preferred Alternatives. To the extent the route modifications require additional water crossings and water to land transitions, the Applicants will utilize HDD technology that will avoid adverse environmental impacts to major aquatic systems by eliminating the need for shoreline trenching and disturbance of the shallow water interface between land and water.

52. Fisheries (§4.7): As with the previous section, there would be a net decrease in the impacts to aquatic systems should the proposed Putnam Station Alternative be accepted and utilized, since there is less construction within Lake Champlain. The other Preferred Alternatives are not located in Major Aquatic systems and therefore there is no change in the impacts to Fisheries. By using HDD technology for water to land transitions and for installation under major waterways (*i.e.* Catskill Creek, Mohawk River) the Applicants will avoid, minimize or mitigate impacts associated with water quality and habitat and aquatic species. As required under the Project's Water Quality Certificate, no in-stream work, or any work that may result in the suspension of sediments, will occur in streams designated as "C(T)" and "C(TS)" streams during the trout spawning and incubation period commencing October 1 and ending May 31st.

53. Wildlife (§4.8): As with the Certified Route, the Applicants have minimized long-term impacts to terrestrial wildlife habitats by primarily routing the transmission cable corridor along previously disturbed railroad and road ROWs. Temporary impacts to wildlife species from construction noise, ground disturbance and vegetation clearing within the construction zone will be avoided or minimized by utilizing previously approved BMPs. Mobile wildlife species such as mammals and snakes are expected to move into similar adjacent habitats nearby during construction and return to the area once construction is completed. Restoration activities, such as soil stabilization and temporary seeding of disturbed areas, will be conducted and any areas that are impacted during the cable installation will be allowed to revegetate naturally. Because the cable

will be buried, no permanent aboveground impacts to habitat for wildlife species will result except in the limited area where vegetative management beyond that currently employed is required. These impacts are anticipated to be consistent with the Certified Route.

54. Threatened and Endangered Species (§4.9): The Original Application and Exhibit 121 provide an analysis of potential state or federal threatened or endangered (“TE”) species, candidate TE species, and special concern species that might be found in the vicinity of the Certified Route. The Applicants, in collaboration with the NYSDEC and the other settlement parties, have identified and developed several measures to be implemented where necessary, to avoid or minimize potential impacts to TE wildlife species listed at 6 N.Y.C.R.R. Part 182 and their occupied habitats. These measures are described in the Conditions 51 and 52 of the Certificate Conditions, the BMPs and EM&CP Guidelines and include protective measures for Indiana bat (*Myotis sodalis*) and Karner blue butterfly (*Plebejus melissa samuelis*). Given the close proximity of the Preferred Alternatives to the Certified Route, the disturbed nature of the nearby habitat setting, and the protective measures in place, it is not expected that there would be any additional adverse impacts from the alternative routes compared to the corresponding Certified Route.

55. Historic and Archeological Resources (§4.10): A Phase 1A cultural resource investigation was completed for the Preferred Alternatives except for the New York City Alternatives, which presented an assessment of the archeological sensitivity and potential for the prospective area of potential effects (Appendix H, submitted as Confidential Information). Archeological sites were identified, both pre-contact and historic, but none of these sites are likely to pose a significant obstacle to the completion of the Project. The Applicants developed a Cultural Resources Management Plan that was reviewed by the New York State Parks, Recreation, and Historic Preservation that details resource evaluation, avoidance and impact minimization measures that will be undertaken, including procedures if resource discoveries are made during Facility construction. The Applicants will adhere to the protocols laid out in that document for construction and operation of the Preferred Alternatives.

56. Visual and Aesthetic Resources (§4.11): Burial of the cables primarily within existing disturbed ROWs will minimize impacts on visual and aesthetic resources, particularly compared to traditional overhead transmission lines. The nature of potential aesthetic impacts will include limited tree removal and associated impacts on areas of public interest (including parks, heritage resource sites, and residential areas) and the presence of line marker and warning signs

located at land to water transition areas. However, these aesthetic impacts will be minimized by the Applicants through revegetation, tree protection measures, the use of landscape planting in select locations, and the installation of warning signs at the banks of navigable waterway crossings in areas where visual contrasts are minimized due to existing shoreline development and visual sensitivity is low. These visual and aesthetic impacts are anticipated to be consistent with those associated with the Certified Route.

57. Noise (§4.12): All noise impacts for the construction of the Preferred Alternatives will be similar to those associated with the Certified Route. Construction noise will be temporary in nature and the impact will vary according to the construction equipment in use and existing background or ambient noise at given times and locations. Residents and businesses could be temporarily affected by noise from construction activities, but no residence will be exposed to significant noise levels for an extended period. As with the Certified Route, there will not be permanent noise impacts and so the noise impacts associated with the alternative routes will be consistent with those contemplated under the Certified Route.

58. Public Health (§4.13): The public health impacts associated with the Preferred Alternatives, including those related to the electromagnetic field (“EMF”) associated with the operation of the HVDC transmission cables, are anticipated to be consistent with those of the Certified Route since the current of the cables does not change. As discussed in the *Revised Electric and Magnetic Field Report (Exhibit 39 of the Joint Proposal)*, the burial of the HVDC cables reduces the electric field levels to inconsequential levels. This same report as well as the subsequent *Electric and Magnetic Fields Report – Report Supplement (Exhibit 116 of the Joint Proposal)* concluded the magnetic field associated with the cables would be consistent with the “New York Public Service Commission’s Interim Policy Statement on Magnetic Fields,” as issued on September 11, 1990.

59. Based on the analysis completed, the Preferred Alternatives presented above, in comparison to the Certified Route, do not create a material increase in any environmental impacts. These Preferred Alternatives provide an appropriate balance among the various stakeholder interests and represent the minimum adverse environmental impact, considering the state of available technology, environmental and engineering constraints, and other pertinent considerations. As was the case with respect to the Certified Route, these Preferred Alternatives and associated construction techniques will continue to avoid or minimize the disturbance of

natural habitat through the extensive use of existing and previously disturbed ROWs to the extent feasible, thereby reducing environmental disturbance and aesthetic impacts.

Alternative Converter Station Location Analysis

60. Exhibit 121 also provided an analysis of the likely environmental impacts associated with locating the converter station on the Luyster Creek property (the “Certified Site”). This work relied in part on a previously completed *Comparative Analysis of Converter Station Sites - Yonkers, Astoria and Harlem River Yard Sites (Exhibit 108 of the Joint Proposal)* which considered zoning, land use, aquatic resources, visual and aesthetic resources, noise, and other resources. The Applicants also completed the *Amendment to Visual Assessment Report: Projected Converter Station in Astoria, NY (Exhibit 110 of the Joint Proposal)*, which demonstrated that there would be no significant visual impacts associated with the Certified Site. The Environmental Report provides a similar level of assessment for the Preferred Alternative converter station site located approximately 0.2 miles to the north of the Certified Site. The environmental impacts associated with the proposed alternative routes are reviewed in the Environmental Report. For each of the environment resource areas covered in the Original Application and Exhibit 121, the Environmental Report makes the following determinations (paragraphs 61-73):

61. Construction and Operation (§4.1): There will be no change in the construction and operations methods employed for the Preferred Site compared to the Certified Site.

62. Land Use (§4.2): The placement of the converter station at the Preferred Site, as with the Certified Site, is consistent with the industrial character of the area. The Preferred and Certified Sites are located on portions of the parcel that have hosted utility-related land uses and are zoned M3-1 for heavy manufacturing-industrial uses. There would be no impact to using either location in terms of existing New York City plans, including the New York City Comprehensive Waterfront Plan and the New York City Waterfront Revitalization Plan.

63. Geology, Topography, and Soils (§4.3): Due to the close proximity of the Preferred Site compared to the Certified Site, the soils regime is expected to be similar if not identical to that previously reviewed. Historically, this parcel has been used for utility related uses, including a manufactured gas plant and coal-burning power plants, and there is a risk of contaminated soils and/or groundwater at both sites (*see Public Health, infra*).

64. Vegetation and Natural Communities (§4.4): The two Sites are located on properties in urban areas that have a high degree of disturbance. No significant or high-quality vegetation or natural communities are within the areas proposed for the Preferred Site. As such, the impacts on vegetation and natural communities associated with the development of these two sites should be equivalent or nearly so.

65. Wetlands and Water Resources (§4.5): Based on the available information, there are no known wetlands on either of the site. There are also no water resources being impacted. Tidal wetlands are found along the portions of the Con Edison property that borders the East River and Luyster Creek. These resource areas are avoided through the use of HDD construction methods for all landfall locations. It is anticipated that the impacts on wetlands and water resources associated with the development of either of these two Sites is similar.

66. Physical and Chemical Characteristics of Major Aquatic Systems (§4.6): The Certified Site was determined to have no physical and chemical impacts on major aquatic systems and the Preferred Site is located on a similar area so no change in impacts is anticipated to nearby aquatic systems.

67. Fisheries (§4.7): The Certified Site was determined to have no fisheries impacts and the Preferred Site is located on a similar area so no change in impacts is anticipated to fisheries.

68. Wildlife (§4.8): The Certified Site is located in urban areas and were determined to have no impact on wildlife. The Preferred Site is located in the same urban area and no change in impacts is anticipated to wildlife.

69. Threatened and Endangered Species (§4.9): There are no known terrestrial threatened or endangered species in the vicinity of either the Certified Site or the Preferred Site.

70. Historic and Archeological Resources (§4.10): Both the Certified Site and the Preferred Site are located on a parcel in urban areas with varying degrees of historic uses. Ground-disturbing activities at these locations have the potential to adversely affect the integrity of archaeological resources at the site, should any exist. The property where the Preferred Site Alternative and Certified Sites are located has been identified by the State Historic Preservation Office as an archaeologically sensitive area that may contain potentially significant cultural deposits associated with the historic operation of the Astoria Gas Works. Both Sites will require either pre-installation field surveys or construction monitoring by a qualified cultural resource professional. The Applicants developed a Cultural Resources Management Plan that was reviewed

by the New York State Parks, Recreation, and Historic Preservation that details resource evaluation, avoidance and impact minimization measures that will be undertaken, including procedures if resource discoveries are made during Facility construction. The Applicants will adhere to the protocols laid out in that document for construction and operation of the Preferred Alternatives.

71. Visual and Aesthetic Resources (§4.11): The visual setting of the Preferred Site is dominated by existing utility infrastructure and the immediate environment surrounding the proposed location of the converter station is predominantly industrial and commercial in nature, so that a converter station at either location would not be out of character with existing local land use and will not redefine the nature of the view. Views toward either converter station site from nearby residential areas are dominated by the expanse of existing utility infrastructure, which limit public viewing of either site.

72. Noise (§4.12): The area in the vicinity of the Preferred Site includes a combination of industrial, commercial, and residential land uses. Computer modeling was used to estimate noise levels that would be experienced at nearby residential and industrial areas due to the operation of the converter station at the Certified Site. Based on the Operation Noise Contour map and the increased distance from residential areas of the Preferred Site compared to the Certified Site, the modeling data demonstrates that the estimated Project noise at the Preferred Site would be in compliance with the New York City Zoning Resolution for industrial and residential property lines, the New York City Noise Code, and the NYSDEC Noise Policy.

73. Public Health (§4.13): The parcel which contains both the Certified and Preferred Sites has a long history of industrial use and construction of the converter station at either location will take into account the potential for existing contamination commonly found in these settings. The Applicants have examined environmental reports for the larger property which describe previous investigations that employed both invasive and non-invasive survey techniques. To the extent contamination is present on the Preferred Site, the Applicants will implement construction measures as identified in the BMPs to protect workers, the community and the environment.

74. In conclusion, the Certified Site is comparable to the Preferred Site in terms of the likely environmental impacts. Both sites are on a campus which has historically been utilized for utility-related purposes, and the construction and operation of a converter station at either location would be consistent with the existing and historic uses. Previously agreed upon measures to limit

exposure to contamination, to the extent it is present to workers, the community, and the environment would be implemented at the Preferred Site. The Preferred Site would be located a greater distance from nearby residential areas than the Certified Site, thereby reducing noise and visual impacts. The Preferred Site represents the most appropriate alternative site for the converter station considering environmental impacts, feasibility, and location.

IV. CONCLUSION

For the reasons set forth herein, Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. respectfully request the Certificate be amended as specified above.

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Respectfully submitted,

/s/ Steven D. Wilson

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