STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Application of Champlain Hudson Power Express, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law 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 CHPE, LLC AND CHPE PROPERTIES, INC. FOR AN AMENDMENT TO CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

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I. INTRODUCTION

CHPE, LLC and CHPE Properties, Inc. (collectively, the "Applicants"), by submitting this Application ("Application") to the New York State Public Service Commission (the "Commission"), seek certain amendments to the Certificate of Environmental Compatibility and Public Need issued in this proceeding on April 18, 2013 (the "Certificate").[1] The Certificate authorizes 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.[2]

[1] On July 16, 2020, the Commission approved the transfer of the Certificate to CHPE, LLC from Champlain Hudson Power Express, Inc. ("CHPEI"). For the purposes of this filing, "Applicants" represents both past and current Certificate Holders. In August, 2020, Champlain Hudson Power Express, Inc. converted from a corporation (CHPEI) to a limited liability company (CHPE LLC) and received Commission approval to transfer its CECPN from CHPEI to CHPE LLC. *See* Case 20-E-0145: *Petition of Champlain Hudson Power Express, Inc., CHPE Properties, Inc., and CHPE LLC for a Declaratory Ruling that a Series of Intra-Corporate Transactions are Not Transfers Subject to Review Under the Public Service Law or, in the Alternative, for Certain Approvals Pursuant to Sections 70 and 121 of the Public Service Law,* Order Approving Transfers (July 17, 2020).

[2] Affidavits of Service and Affidavits of Publication are being filed under separate cover.

In support of their request for an amendment, the Applicants state as follows:

1. On March 30, 2010, the Applicants submitted the original Certificate application (the "Original Application"), which led to a three-year process that culminated with the issuance of the Order granting the Certificate (the "CECPN 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 the process leading up to the eventual CECPN Order, the Applicants successfully built a coalition of affected parties, and that coalition produced the joint proposal of settlement (the "Joint Proposal") that formed the basis of the Commission's favorable decision.

2. In making its finding that the Project will serve the public interest, convenience, and necessity, 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 New York City ("NYC").[3] 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.[4] 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."[5] At the heart of the Commission's determination to grant the Certificate was the conclusion that

[3] Case 10-T-0139: *Application of Champlain Hudson Power Express, Inc. for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the PSL*, Order Granting Certificate of Environmental Compatibility and Public Need (April 18, 2013), at 100 (the "CECPN Order").

[4] CECPN Order, at 97.

[5] CECPN Order, at 98.

"the Facility's expected emission reductions are a substantial environmental benefit, a benefit that is expected to be enduring."[6]

3. Since the Certificate was issued, the Applicants have worked diligently, in parallel efforts, to obtain the additional governmental permits and approvals necessary in order to fully and finally authorize construction and operation of the Project, to conduct outreach and coordination efforts directed at interested stakeholders, to finalize the commercial arrangements that will allow for Project financing, and to refine the Project construction program with a view towards further minimization of Project impacts.

4. On September 30, 2019, the Applicants filed a petition requesting that the Certificate and certain Project construction filings be amended to authorize certain changes related to updating previous filings regarding Project construction, avoiding delay in Project construction (Certificate Condition 11), and ensuring efficient processing of construction and post-construction filing requirements (Certificate Conditions 95(a)(i), 140, and 156(b)).

5. On March 20, 2020, the Commission approved all of the requested changes except one related to Certificate Condition 11, upon which it reserved decision. The Commission approved the Applicant's proposed revisions to Certificate Condition 11 on September 17, 2020.

6. On December 6, 2019, the Applicants filed a second petition (the "Amendment 2 Petition") seeking approval of certain preferred alternatives ("Preferred Alternatives") to the Project routing as approved by the CECPN Order ("Certified Route"). The Preferred Alternatives proposed included minor routing changes and the relocation of the converter station site in order to, among other things, avoid shallow water engineering challenges, reduce rock removal and

[6] CECPN Order, at 52.

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. The Commission approved the Preferred Alternatives and granted an amendment to the Certificate on August 13, 2020.

7. While the Amendment 2 Petition was pending before the Commission, the Applicants continued to consult with key NYC stakeholders and the NYSDOT regarding the routing of the Project. These discussions built upon years of work dedicated to refining the Project construction program, which included outreach to both public and private landowners along the Project route. As a result of these efforts, the Applicants were able to identify two additional modifications to the Project design that warrant Commission review and approval. This Application explains in more detail the need for these minor revisions under the following two separate headings:

a. Modification to Routing in Harlem River Yard

b. Augmentation of the Deviation Zone in Rockland County in Select Locations

Modification to Routing in Harlem River Yard

8. The Applicants request approval of a routing modification[7] that would bypass the majority of the Harlem River Yard through installation of the cables under Randall's Island Park (the "Park"), which is located directly across the Bronx Kill from the Harlem River Yard ("Harlem

[7] This modification is in addition to the seven route modifications that the Commission approved on August 13, 2020.

River Yard Alternative").[8] The Harlem River Yard is owned by the NYS Department of Transportation ("NYSDOT") and is leased to Harlem River Yard Ventures, LLC ("HRYV") a subsidiary of the Galesi Group (the "HRY Lease"). HRYV has in turn subleased several areas of the Harlem River Yard to commercial tenants (the "Subtenants").

9. In proposing this routing, the Applicants have been guided by two key constraints imposed by the CECPN Order—Project design must be consistent with "Good Utility Practice" and CI must be protected (the "Good Utility Practice Mandate").[9] In addition, the Applicants continually seek to minimize impacts to stakeholders including HRY transportation-based businesses and their employees during construction.

10. Through consultation with HRYV, the Subtenants, NYSDOT and review of new and/or updated information relating to infrastructure, facilities, and traffic that only became available after issuance of the Certificate, the Applicants have been compelled to revisit the question of whether any routing through the Harlem River Yard ("HRY") can conform to the Good Utility Practice Mandate. This new information indicates that there are significant engineering challenges associated with installing the cables around or under new underground utility lines and above-ground commercial facilities. Furthermore, the construction in the core portion of the HRY would cause disruptions to the around-the-clock operations of businesses and their employees serving basic public needs (i.e., food, news, and package delivery). All of these considerations are further discussed in Section 2 of this Application.

[8] The Applicants did not submit this routing change request as part of the December 6, 2019 filing due to continuing conversations with NYC officials, the owner and manager of Randall's Island. Those conversations were further delayed for several months due to the COVID-19 pandemic.

[9] Certificate Conditions 19-29 and 162.

11. In addition, pursuant to Section 6.01 of the HRY Lease, the express "purpose and intent" of NYSDOT for the leased land is to achieve three public benefits—the development of an intermodal facility involving rail delivery service, the improvement of rail access in the areas east of the Hudson River, and the removal of trucks from local highways and bridges (the "Rail Transport Objective"). HRYV, the Subtenants, and NYSDOT have called into question the compatibility of a cable route through the core of the HRY that can comport with the Rail Transport Objective.

12. The Harlem River Yard Alternative is located approximately 1,200 feet south of the routing approved in the CECPN Order. The Harlem River Yard Alternative is entirely within the boundaries of NYC, which is a party to the Joint Proposal, and largely within the borough of Manhattan. The location of the Harlem River Yard Alternative is shown by maps at scales of 1:250,000 (Appendix A) and 1:24,000 (Appendix B) as well as aerial photographs (Appendix C).[10]

13. From August, 2019 to August, 2020 the Applicants engaged in detailed and extensive negotiations with the New York City Department of Parks and Recreation ("NYC Parks Department"), which manages the Park; the Randall's Island Park Alliance ("RIPA"); and the New York City Departments of Transportation and Law.

14. This effort culminated in the recent endorsement of the Harlem River Yard Alternative by NYC, as demonstrated by the letter dated September 25, 2020, a copy of which accompanies this Petition as Appendix E. The Applicants have initiated the application process

[10] The Appendix A maps utilize USGS mapping instead of the NYSDOT mapping that the regulations request. TDI is requesting the NYPSC 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).

pursuant to which they and the New York City Department of Transportation will enter into a revocable consent agreement to allow placement of the cables under Randall's Island.

15. In view of the foregoing, the Applicants are requesting that the Commission approve the expansion of the Allowed Deviation Zone ("ADZ") in NYC to allow for installation of the Project cables and related facilities and equipment within and under the HRY, the Park, and the East River as shown in the routing maps that accompany this Petition as Appendix C.

Augmentation of the Deviation Zone in Rockland County in Select Locations

16. The Applicants request approval of a routing modification[11] that would slightly augment the already-authorized ADZ in Rockland County (the "Rockland County Adjustment"). The Preferred Alternatives presented in the Amendment 2 Petition and approved by the Commission on August 13, 2020 included the "Rockland County Alternative." The approval of the Rockland County Alternative authorized cable installation within the NYSDOT 9W right-of-way ("ROW") rather than within the CSX Transportation ROW. The change was proposed in order to respond to construction challenges within the CSX Transportation ROW, feedback from CSX Transportation, and significant community opposition and to reduce community impacts.

17. The Applicants have engaged in significant consultation with NYSDOT regarding optimal cable placement and approvable construction methods to be deployed for the proposed alignment within Route 9W in Rockland County. In support of that effort, the Applicants worked diligently with their original equipment manufacturer to increase the length of the cables along

[11] This modification is in addition to the seven route modifications that the Commission approved on August 13, 2020.

this segment of the Project route so as to minimize the number of cable splices, and thereby reduce the number of splice locations required. Instead of approximately 16 splice locations, seven are now proposed. In order to further minimize the impacts to the community arising from lane closures and the resultant traffic impacts, the Applicants are proposing to locate five splice locations on private land immediately adjacent to the ROW ("Off-ROW Splice Areas") rather than within the active roadway ROW itself. The other two splice locations are also within the NYSDOT roadway boundary but within the areas of ADZ that have already been approved by the Commission. Diagrams showing the location of the five splice locations accompany this Petition as Appendix D.

18. In view of the foregoing, the Applicants are requesting that the Commission approve the expansion of the ADZ in Rockland County to allow for the installation of splices, and related facilities, on private land as shown in the routing maps that accompany this Petition as Appendix D.

Conclusion

19. In summary, the case for the Project meeting all of the legal standards set forth by section 126 of the Public Service Law 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 fossil fuel emissions, the case has only become stronger. For all of the reasons set forth herein, the Applicants respectfully urge the Commission to conduct an expeditious review of the Application and conclude that review with an order approving the two proposed modifications. When viewed individually and in the aggregate, these changes present neither a material increase in any environmental impact nor 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]).[12]

20. The Applicants also respectfully urge the Commission to act upon this Application in as timely a manner as possible. The New York Independent System Operator ("NYISO") is currently studying the Project as part of Class Year 2019. Based on the latest available information, Applicant believes the NYISO will conclude its study processes in January 2021, which will trigger a requirement that Applicants post an estimated security of approximately $190 million dollars for required upgrades as early as February/March 2021. If the Applicant does not timely post the required security, the Project must enter a new NYISO Class Year study, which would delay the Project (and all of its attendant benefits) by one or more years. In order to be in a position to post a security of this magnitude, the Applicants must have all permit modifications approved no later than January 2021 to enable financing to occur as early as February/March 2021. Accordingly, the Applicants respectfully request that the Commission approve the proposed amendment before the end of January 2021. 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 initiatives that have recently been enacted into law by both the State and NYC.

[12] "No 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." *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.* (CASE #15-T-0384) September 15, 2015. P. 3

21. The Applicants also respectfully urge that, in acting upon this Application, the Commission should address the fact that approval of the Preferred Alternatives on August 13, 2020 rendered obsolete the texts of certain of the Certificate Conditions addressing Project geography, and the same will be true with respect to the approval of the modifications hereby applied for. In order to harmonize the CECPN Order with these approvals, the Applicants respectfully request that the Commission include in its order the following two sentences:

> ***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) and 2 (reference to Appendix B maps). For the avoidance of doubt, those narrative descriptions are to be deemed updated and amended as may be necessary in order to conform them to the relevant As-built Design Drawings filed pursuant to Certificate Condition 139(b) following construction.***

22. The Applicants are convinced that the public interest in this proceeding is best served by an expeditious process that should conclude no later than January 2021. Therefore, 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 PROPOSED PROJECT MODIFICATION

23. The Applicants are seeking approval of the Harlem River Yards Alternative and the Rockland County Adjustment, both of which represent minor departures from the original Project design. With respect to the latter, the Applicants believe that this change is necessary and

appropriate because it will reduce community impacts primarily related to traffic and address long term maintenance concerns raised by NYSDOT. With respect to the former, the Applicants believe that this change is necessary because installation of the permitted route in this vicinity will (a) preclude compliance of Project design with the Good Utility Practice Mandate; (b) materially disrupt the around-the-clock operations of businesses and their employees serving basic public needs (i.e., food, news, and package delivery) and (c) allow the Applicants to avoid significant engineering challenges associated with installing the cables around or under new underground utility lines and above-ground commercial facilities. In addition, the certified cable route is not fully compatible with the Rail Transport Objective for the HRY. The detailed discussion presented in this section of the Petition provides the background and justification for these requested modifications and addresses the associated environmental impacts.[13]

HARLEM RIVER YARDS BYPASS ALTERNATIVE

24. The HRY is a heavily congested commercial area on the southern waterfront of the Bronx adjoining the Mott Haven and Port Morris neighborhoods. At the time of the granting of the Certificate, the HRY was home to a number of industrial and commercial facilities, including but not limited to a major solid waste transfer facility and a 94 MW New York Power Authority ("NYPA") peaking plant. The railroad facilities, originally designated the "Oak Point Link," connect rail lines to the west along the Hudson and Harlem Rivers with rail lines to the east along

[13] The Applicants by seeking approvals of alternatives pursuant to this Application are not relinquishing their rights granted by the Certificate to construct Project facilities within the ADZ as it stands approved as of this filing. The specific environmental impacts associated with the proposed potential alternatives are reviewed in Section 3 of this document.

Long Island Sound. Three major bridges (Willis Avenue Bridge, Robert F. Kennedy Bridge, and CSX Rail Bridge) link Manhattan to the south with the Bronx to the north. Massive piers supporting these bridges are in the HRY. Two large nineteenth century sewers (under Brook Avenue and St. Anne's Avenue) also traverse HRY, travelling underground from the north and discharging at their south outfalls to the Harlem River. The HRY is also the host to buried water supply pipes, telecommunication cables, and gas and electric mains.

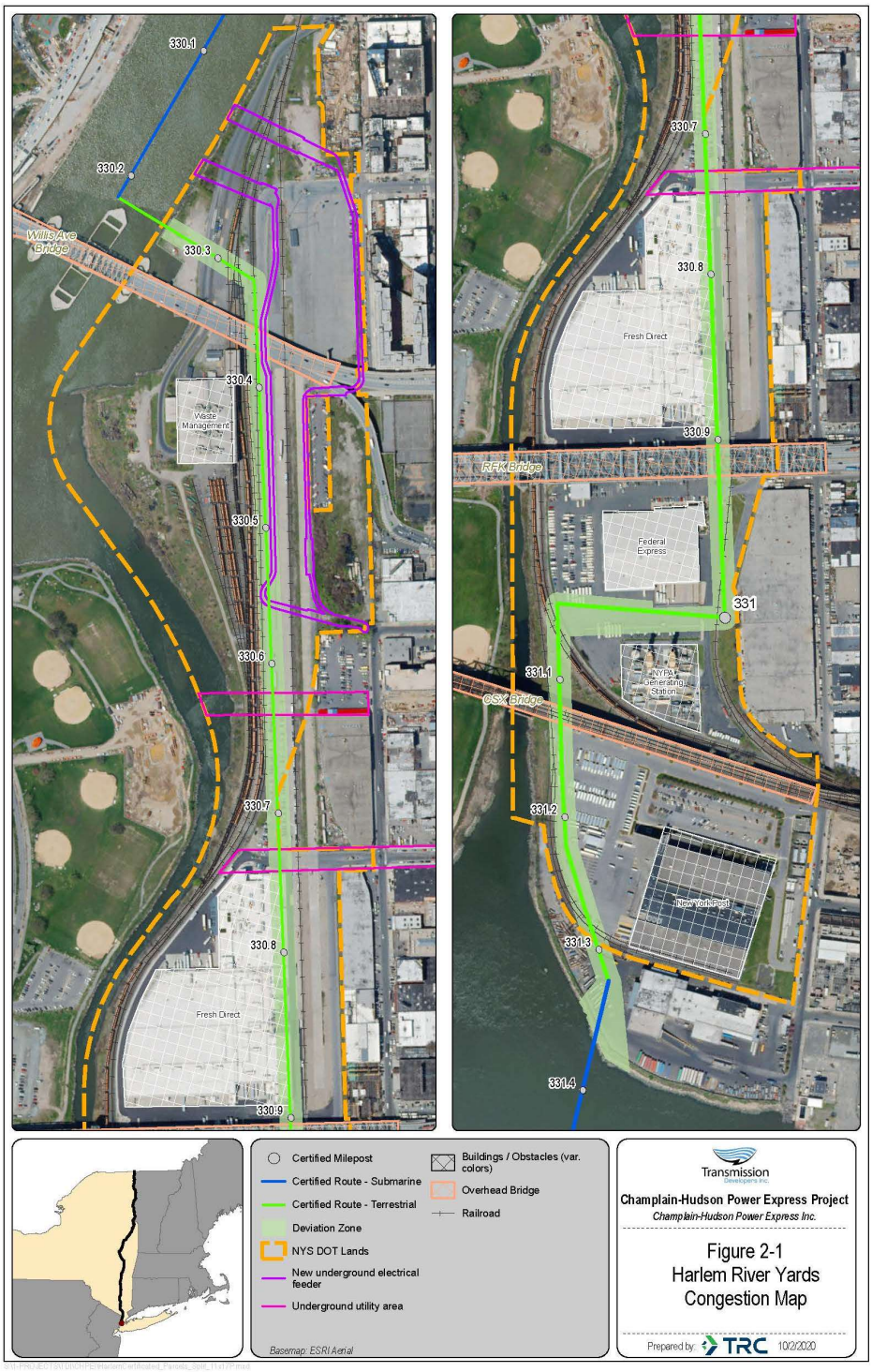
25. As part of a multi-year route review, the Applicants performed a new assessment of the feasibility of the Project routing within the HRY as well as other areas of the route. In connection with this assessment, the Applicants engaged in extensive collaborative engineering, construction, and operational consultation with impacted organizations including NYSDOT, NYC, Galesi Group and those leasing from Galesi Group or otherwise occupying the HRY, including Waste Management, Fresh Direct, News Corp (New York Post), and Federal Express ("FedEx").

26. Based on the interaction with these parties, as well as updated information related to infrastructure, facilities, and traffic that only became available after issuance of the Certificate, it became clear to the Applicants that the level of congestion and associated engineering challenges was much more significant than contemplated at the time of the issuance of the CECPN Order. Significant above and below ground infrastructure (e.g. electrical feeders and the Fresh Direct's 400,000 square foot headquarters) have been added in the years following issuance of the Certificate. Figure 2-1 presents the features that contribute to this congestion, which are detailed as follows:

- MP 330.3 – 330.6: Two new underground utility easements have been created to the northwest of the horizontal directional drill ("HDD") transition from the Harlem

River that is a part of the Certified Route. These easements parallel the Certified Route, and, at one point, the easement closest to the Certified Route intersects with the Project's centerline. Consolidated Edison Company of New York ("Con Edison"), has advised the Applicants that, in order to enhance reliability of the power grid in the wake of Hurricane Sandy, these easements were procured and the underground electrical feeders were installed within them. The easements extend from the Harlem River to the Mott Haven and the Port Morris communities. These new feeders are installed at a depth similar to the depth assigned by the Certificate for the Project cables (approximately three and one half [3.5] feet below the surface). To avoid interference with these feeders, an HDD would likely need to be used, which will be a challenge in the HRY due to space constraints in this area and bridge abutments.

Figure 2-1 Congestion in Harlem River Yard



- MP 330.3 – 330.9: HRYV has recently informed the Applicants that, as a result of the recent development of new facilities in the HRY, the dedication of remaining vacant areas in the vicinity of rail infrastructure for a Project ROW would not be compatible with current development plans, taking into account both the Rail Transport Objective and the rising demand for additional transportation-based uses within this area.

- MP 330.4, 330.9, 331.1: In many other sections of the Certified Route, the Applicants propose HDDs to avoid significant obstacles such as waterways, and significant topographical anomalies. However, large and substantial overhead bridges and their associated structural support foundations traverse the HRY and the Certified Route at these three locations. Consistent with the Good Utility Practice Mandate, HDDs are generally not used within close proximity of bridge abutments due to their potential to impinge on the structural integrity of the bridge. Construction standards and practices established by the MTA Bridges and Tunnels Authority ("MTA") and consultation with the Applicants' engineering and construction teams indicate that the presence of these three bridges and their deep supporting foundations materially limit the ability of the Applicants to use HDDs to avoid existing and new buried Co-located Infrastructure ("CI") in the HRY.

- MP 330.6 – 330.75: Multiple underground utility installations extend from south of the HRY into and across the HRY. Historical buried infrastructure, such as drainage systems that are over a century old, as well as recently buried utility infrastructure

serving the newly built commercial buildings, are present throughout this area. Like the Con Edison feeder lines, this infrastructure presents significant construction challenges.

- MP 330.75 – 330.9: In 2018, Fresh Direct opened a 400,000 square foot headquarters and distribution hub in the HRY. This building employs approximately 1,000 people and operates 24 hours a day, 7 days a week. The building was constructed on the centerline of the Certified Route, and access roads that accommodate Fresh Direct's deliveries have absorbed considerable space within the ADZ. The Applicants held three meetings with Fresh Direct representatives in an attempt to identify a Project construction program that would not significantly impact the new Fresh Direct infrastructure or its associated round the clock operations. These discussions proved to be unsuccessful.

- MP 331 – 331.3: FedEx owns a 100,000 square foot distribution center in this location which, like Fresh Direct, operates 24 hours a day, 7 days a week. Construction in this area would temporarily block the facility's only access road and extend through its parking lot, producing a major impact to an operation that serves the metropolitan area. Similar issues are presented with respect to the adjacent NY Post facility. The Applicants met with FedEx and NY Post representatives on several occasions in an attempt to identify a Project construction program that would not significantly impact their operations. These discussions proved to be unsuccessful. In addition, in order to

avoid active railroad tracks and grade changes in this area, the Applicants would need to perform an HDD from the FedEx parking lot to the NY Post parking lot and another HDD from the NY Post parking lot to Astoria, Queens. This HDD would need to go under the bridge abutments associated with the overhead CSX railroad bridge, and, as noted above, such an approach is generally considered to be inconsistent with the Good Utility Practice Mandate.

27. Each of the aforementioned circumstances affecting the HRY ADZ represent an engineering challenge, but, on a cumulative basis, they call into serious question whether any Project routing seeking a ROW corridor through the entirety of the HRY relying on the ADZ could satisfy the Good Utility Practice Mandate. As importantly, the Applicants were made aware that construction of this type would pose significant disruption to operations of businesses within HRY that provide basic services to the larger community. Upon reaching this point of the Project routing assessment, the Applicants determined to seek and analyze potential alternatives.

28. In assessing alternative routes, the Applicants considered remaining in the Harlem River until its junction with the East River at Hell Gate and then traveling northeast to the Astoria complex. This routing was considered during the Article VII process leading up to the issuance of the Certificate, but it was ultimately deemed infeasible, in large part due to the heavy commercial traffic in the busy East River maintained federal navigation channel, existing contamination, and other water-dependent uses in the vicinity.

29. At the suggestion of NYC, the Applicants reviewed the potential for installation of the cables within the Bronx Kill. However, the tidal water levels are too high to allow for terrestrial installation techniques but too low to allow for the use of vessel installation. Dewatering the Bronx Kill to enable terrestrial installation also posed the problem of extensive environmental impacts,

including the potential destruction of Submerged Aquatic Vegetation that has been mapped by the New York State Department of Environmental Conservation. Canalizing the waterbody to enable barge plow installation also poses certain environmental risks due to the potential presence of historic contaminants within the bottom soils as well as the presence of subsurface utilities. Finally, dewatering or canalizing the waterway would require significant engineering modifications whose costs are unknown at this time.

30. The Applicants also considered the possible routing of the cables through E 132nd Street adjacent to the HRY. Under this scenario, the cable installation would still have to exit the Harlem River and cross the Con Edison easements within the HRY prior to exiting on Alexander Avenue, then make a turn into East 132nd Street. East 132 Street is a narrow ROW and represents a major commercial access for the Mott Haven and Port Morris business communities. As such, it provides round the clock commercial ingress and egress for the local businesses within that community. This route also represents a primary access route for the businesses in and around the HRY. Construction disruption along this roadway will represent a major burden to these businesses and to the community as a whole. Additionally, the complications associated with the various existing in-roadway subsurface utilities are similar to those previously described within the HRY but are likely to be more extensive. This access roadway is also crossed by the Willis Avenue Bridge, the Major Deegan Expressway, and the Robert F. Kennedy Bridge, so the previously identified concern regarding the use of HDD under bridge abutments would apply along this routing as well. These factors individually and collectively contributed to the Applicants' conclusion that this option is not viable.

31. The Applicants also weighed the potential of implementing various long and deep HDDs to traverse the entire HRY facility. However, as stated earlier, the challenges imposed by

the proposed routing's proximity to various bridge supporting structures and its need for areas for HDD pits, piping, and construction access made this option unworkable.

32. The Applicants began their analysis of alternatives with the presumption that installation under the Park should not be proposed until every other reasonable option had been explored. After three years of consultation and analysis, it became clear that this routing needed to be at least considered given the community impact, environmental, and engineering concerns related to the other alternatives. In August 2019, the Applicants approached NYC about the potential of installing the Project cables within the Park. The goal of this consultation was to determine whether the transmission cables could be accommodated within the Park while avoiding and/or minimizing impacts related to the current and foreseeable future public use of the Park.

33. Accordingly, the Applicants initiated numerous exploratory meetings with the representatives of the NYC Mayor's office, the NYC Parks Department, and impacted NYC agencies to vet this alternative. Those meetings resulted in the Applicants being directed to engage in active consultation with key representatives from NYC Parks Department. To understand, review, and refine the alternative being proffered by the Applicants, the NYC Parks Department staff included the participation of various other Agencies in the process. Key participants in the review process included the New York City Law Department, RIPA and NYC Department of Transportation. These early engagement steps resulted in recommended routing modifications influenced by NYC Parks Department and RIPA to ensure a well-coordinated and acceptable placement of the alignment within the Park. This proactive consultation resulted in the incorporation of the following changes to the version of the Preferred Alternative presented to NYC in 2019:

- Relocation of the proposed HDD vault to Bronx Shore Rd.
- Relocating the alignment and proposed construction deviation zone to avoid existing plantings along the planned routing.
- Adjusting cable installation depth within the roadway and walkways to avoid existing subsurface utilities.
- Installation at deeper elevation to avoid any future collated infrastructure placement and/or waterfront development
- Off season construction to limit disruption to the public use of the Park.
- Confirmation that public use of the Park could be maintained during construction activities.

This interaction, together with other feedback received from the stakeholders consulted, were incorporated in the design of the Harlem River Yard Alternative. As noted above, NYC's letter states that they expect that these changes will be incorporated into the Project design (Appendix E).

34. The Harlem River Yard Alternative proposes that the Project cables would exit the Harlem River at MP 330 of the Certified Route, relying on an HDD to make landfall within the edge of the HRY at the approach to the Willis Avenue Bridge. Once on HRY land, the routing would then continue via open trenching along the western perimeter for approximately 0.25 miles onto the Bronx Kill side of the Waste Management facility, thus minimizing conflicts with existing underground infrastructure. A second (.4 mile) HDD would then be launched from this location proceeding under the Bronx Kill and under the northwest portion of Park before exiting into a splice vault to be installed at an acceptable depth under the paved Bronx Shore Road within the

Park. The cables would then be installed within a trench at approximately six (6) feet below the Bronx Shore Road in a southeasterly direction under the Robert F. Kennedy Bridge overpass. The supporting structures of the bridge will not be affected by the proposed trench which will be installed within the centerline of the Bronx Shore Road travel lane. Another HDD within this area is not recommended due to potential impacts to the underground support structures of the Bridge. Once past the bridge, the routing would turn and be installed within the paved pedestrian pathway in the northeasterly direction for approximately 0.1 miles before continuing east/southeast along the same existing pedestrian pathways for approximately another 0.4 miles to the eastern edge of the Park property. At this point, an HDD would be launched from a splice vault to cross under the East River to connect with the Certified Route at MP 332.1 within the Astoria complex. For comparison, the Harlem River Yard Alternative is approximately 1.1 miles overland and 1.0 mile submarine while the Certified Route from MP 330 to 332.1 is approximately 1.2 miles overland and 1.0 mile submarine.

35. The environmental impact analysis contained in Section III of this Application indicates that the impacts associated with the Harlem River Yard Alternative are the same or less than those associated with the Certified Route in the HRY. The modified routing will largely avoid impacts to environmental resources, because the cable will be installed within under already disturbed areas (i.e., roadway and paved pathways), and HDDs will be utilized to avoid impacts to the major waterways along this route. Moreover, since the Harlem River Yard Alternative runs parallel and, in many cases, nearly adjacent to the Certified Route, there is no substantial change in location from the originally proposed Certified Route. The environmental impact analysis contained in Section III and the 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 ADJUSTMENT

36. Consistent with the design specification previously provided, splice vaults typically are required for HVDC cable installations approximately every 2,300 feet due to limits on overland transportation of the cables and associated cable drums.

37. In the Amendment 2 Petition, the Applicants proposed to locate the Project within the NYSDOT Route 9W ROW, and this change was approved by the PSC Order of August 13, 2020. Based on further consultation efforts and feedback provided by the NYSDOT, the Applicants worked with the cable system equipment manufacturer as well as its design consultants and installation contractor to develop a customized approach to the cable system transportation and delivery, one that would allow for longer deployable cable lengths along this segment of the Project routing. The solution relies upon marine transport of the cable drums and the utilization of an existing port facility in the northern section of the Town of Stony Point, which together will allow larger cable drums to be delivered directly to the Rockland County vicinity. It is anticipated that the length of the cables will more than double to approximately 6,300 feet when compared to the standard length.

38. Typical workspace requirements for the installation of the splice enclosures within the ROW would involve total, albeit temporary, closure of both lanes of the two-lane sections of Route 9W since the vehicle delivering the enclosure would need to stop in the travel lane next to the opened lane in order to offload the vault. An additional foot of over-excavation and shoring of the pit would also be required for any in-lane installation, which would have a constraining effect

on the ability to maintain traffic on adjacent lanes as this work is being performed. Additionally, to facilitate this work, a standard laydown area of about 30 ft x 100 ft would be required near the splice location to support the ongoing installation. While this requirement can be modified to suit existing site conditions and limitations, all these requirements create further constraints on the ability to maintain an optimum level of work-zone traffic control around in-lane splice locations.

39. The increase in the length of the deployable cable lengths means that the number of splice locations will be reduced from approximately 16 locations to 7 locations. In order to further minimize the impacts to the community arising from lane closures and the resultant traffic impacts, the Applicants are proposing to locate 5 splice locations on private land immediately adjacent to the ROW in the Off-ROW Splice Areas rather than within the active roadway ROW itself. The other 2 splice locations are in the NYSDOT ROW within the areas of ADZ that have already been approved by the NYPSC. Therefore, the Applicants are requesting that the ADZ for this segment of the Project be expanded to encompass the Off-ROW Splice Areas.

40. Locating the splices at offset locations on Off-ROW Splice Areas or already-approved and available offset areas rather than within the travel lanes will significantly reduce the overall impact of planned construction activities along Route 9W and reduce traffic impacts. This approach has been reviewed by the NYSDOT and was provided to the New York State Department of Public Service staff for informational purposes on March 17, 2020. The Applicants have initiated easement procurement discussions with potential landowners, and all these owners received the required notice of this petition, as noted above.

41. The proposed locations as shown in Appendix D were selected so as to avoid disruptions to local business operations, transportation patterns, and existing utilities to the extent practical. In addition, the locations are not adjacent to bus stops, park and rides, or access to

emergency facilities such as hospitals, fire stations, and police stations, and therefore should have no impact on these facilities. To ensure flexibility with respect to discussions with private landowners and to take into account the fact that a detailed engineering design remains to be completed, alternative locations of these splices have been provided for some areas. It is the Applicants' intent that the final detailed designs will be presented as part of the Environmental Management and Construction Plan ("EM&CP"), following the completion of additional detailed engineering efforts.

42. The Applicants are proposing to offset the splice locations in order to address concerns raised by the NYSDOT and to reduce traffic impacts along Route 9W during construction. The environmental impact analysis contained in Section III indicates that the impacts associated with proposed splice locations are the same or less than those associated with the Certified Route. The location of the splices within Off-ROW Splice Areas and available offset areas will avoid and/or minimize impacts to environmental resources, because the cable will primarily be installed under already disturbed areas (i.e., parking lots, pavement) or in locations where the quality of habitat is low. The environmental impact analysis contained in Section III of this Application supports a finding that there is no material increase in environmental impacts or a substantial change in location.

III. DESCRIPTION OF ENVIRONMENTAL IMPACTS

43. The environmental impacts associated with the Project were thoroughly reviewed by the Commission in connection with its review of the Original Application, as supplemented, and the issuance of the Certificate. The two requested Project modifications do not propose any

alterations to construction techniques, and they continue to rely upon location of the Project cables under waterways and beneath previously disturbed surface areas.

44. Key elements of the Original Application are Exhibit 4 – Environmental Impacts ("Exhibit 4"), which provides an assessment of the Certified Route, and Exhibit 5 – Design Drawings, which included Project design drawings including cross-sections of the proposed facilities ("Exhibit 5"). On February 7, 2012, the Applicants updated Exhibit 4 with Exhibit 121: Environmental Impacts Associated with Routing Proposed in Joint Proposal ("Exhibit 121"), which was soon followed by the filing of the Joint Proposal. Appendix E to the Joint Proposal provided guidelines for developing the EM&CP ("EM&CP Guidelines"). Appendix F to the Joint Proposal presented Best Management Practices ("BMPs") to guide Project construction and maintenance activities (e.g. erosion and sediment control; vegetative clearing, general clearing and restoration).

45. With respect to the first modification requested, the analysis presented below tracks the structure of Exhibit 4 and Exhibit 121. With respect to the second modification requested, the impact profile warrants a more generic analysis and, thus, a more concise discussion is provided.

Harlem River Yard Alternative

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. For the Harlem River Yard Alternative, the construction methods and operational procedures would not change significantly, inasmuch as the cables will continue to be installed in conduits in

excavated trenches[14] and buried or placed underground through HDD methods. Within the Park, the Applicants have agreed to a slight design change that will involve deeper target burial depth of the cables (i.e. six [6] feet rather than approximately three and one half [3.5] feet). A cross section of the conduit installation was provided as Exhibit B to the Amendment filed on September 30, 2019.

47. Land Use (§4.2): Because the cables will primarily be installed via HDD or under public roadways and paved pathway, the HRY Alternative will not directly affect existing or future land uses once it is operational. In addition, because the cables are to be buried, they should not change the character of the areas 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. Existing land use along the Certified Route is primarily Open Water and Commercial/Industrial/Transportation while the proposed modification is primarily Open Water, Commercial/Industrial/Transportation, and Parks/Open Space/Recreation. Some minimal shrubbery removal and planted tree removal and relocation is planned at one of the HDD launch sites. Recreationalists and other users of the Park may experience some disturbance and traffic inconvenience associated with construction activities. These effects will be temporary and, in general, most disturbances will last only for a brief period of a few days or a week at the few locations of surface disturbance. On Randall's Island the Applicants have committed to ensuring that public access is maintained throughout the Park during construction. This will be done by creating bypasses around construction for any pathways or roads used by the public. In terms of duration of the construction program, the

[14] As part of a separate amendment request filed on September 30, 2019, the Applicants sought approval of a modified construction technique for upland trenching which involves the use of a conduit. The Commission approved this modification on March 20, 2020.

construction for the entire length of the Harlem River Yard Alternative has been estimated as consuming the same amount of time or less as construction of the corresponding section of the Certified Route. The Applicants have committed to working with the NYC Parks Department to schedule construction during off-peak periods at the Park. In addition, as requested by NYC Parks Department staff, the initial HDD will terminate within a single lane of the Bronx Shore Road.

The New York City Open Accessible Space Information System or Oasis database[15] confirms that the Harlem River Yard Alternative is located within the Park. Additional mapping provided by the NYC[16] shows the Park and does not locate any of the following public facilities directly along the route of the Harlem River Yard Alternative: (a) EMS station; (b) fire house; (c) police precinct house; (d) hospital; or (e) post office. Because the cables will be buried underground, there will be no long-term impact to Park facilities. Bus route mapping provided by the MTA[17] indicates that the Harlem River Yard Alternative will be in close proximity to the travel path for Bus Route 35. Because the cables will be buried underground, there will be no long-term impact to bus routing.

In terms of existing land use plans, it is not expected that the Harlem River Yard Alternative will interfere with any of the initiatives proposed in the *2016 New York State Open Space Conservation Plan* as the routing will be buried. Conservation projects in the boroughs of Queens/New York

[15] http://www.oasisnyc.net/map.aspx?zoomto=lot:4008500001

[16] http://maps.nyc.gov/doitt/nycitymap/?searchType=AddressSearch&addressNumber=23&street=29%20Street&borough=Queens

[17] https://new.mta.info/map/5391

include:

Inner City/Underserved Community Parks (Project 17): This potential project will provide open space and recreational opportunities in densely populated urban areas with limited or no open space resources. The Open Space Plan identified five parks within this project and based on the Applicants' review the Project will not impact these resources.

The *New York City Comprehensive Waterfront Plan* proposed by the Department of City Planning provides a framework to guide land use along the city's entire 578-mile shoreline in a way that recognizes its value as a natural resource and celebrates its diversity. The plan presents a long-range vision that balances the needs of environmentally sensitive areas and the working port with opportunities for waterside public access, open space, housing, and commercial activity. This document identifies the following planning goals with respect to redeveloping the waterfront:

- Promote economic development and enhance the city's tax base by providing opportunities for new uses, including housing for a range of income groups;
- Enliven the waterfront by promoting people-attracting uses, open space, and public access to the waterfront;
- Integrate new development with adjacent upland communities;
- Consider land use, availability of services and infrastructure capacity in determining scale of redevelopment; and
- Promote social and economic diversity on the waterfront.

The Applicants believe the proposed location of the transmission cables will not interfere with any of these goals. However, the Project as a whole does contribute to the economic and social well-being by offering firm renewable energy to NYC which will provide environmental benefits and potentially serve as an attraction for socially conscious businesses and citizens.

During the consultation process NYC Parks Department also evaluated the potential impacts of any future waterfront development and requested that the placement of the alignment and its associated vaults be relegated to the roadway and pathways. In particular, the use of an HDD, which will install the cables approximately 30' – 50' under the west section of the Park for 0.3 miles and the Applicants commitment to bury the cables 6 feet under the east section of the Park is proposed to ensure that the cables will not impact existing infrastructure and will not impede future developments.

The *New York City Waterfront Revitalization Program* is the city's principal coastal zone management tool. As originally adopted in 1982, this Local Waterfront Revitalization Program ("LWRP") establishes the city's policies for development and use of the waterfront and provides the framework for evaluating the consistency of all discretionary actions in the coastal zone with those policies. The guiding principle of the document is to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among these objectives. Portions of the Harlem River Yard Alternative are located within the coastal zone of the state of New York and, therefore, are subject to New York State Coastal Management Program ("CMP") as well as any LWRP. A coastal zone consistency review and certification accompanies this Petition as Appendix F. This analysis concluded that the Project would be consistent with the CMP program and the ten major policies

of NYC's LWRP.

Mapping of the Agricultural Districts in New York County was obtained from the Cornell University Institute for Resource Information Sciences ("IRIS"), which maintains the county-produced Agricultural District maps on file under contract with the NYS Department of Agriculture and Markets. Based on this information, the Harlem River Yard Alternative will not intersect any Agricultural District lands or be located within two-hundred feet of a designed area. Based on the above analysis, the Harlem River Yard Alternative will not adversely affect local or regional land uses, land use planning, or any federal, state, or local public lands. There will be no impact to existing or future land uses or agricultural lands. In addition, because the cables are to be buried, they should not change the character of the cityscape 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.

48. Geology, Topography, and Soils (§4.3): Due to the proximity of the Harlem River Yard Alternative to the Certified Route, the soils regime is expected to be similar to that previously addressed in the Original Application, as supplemented. 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 cables, the area disturbed by construction activities will be graded and paved 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): Based on aerial photography analysis and a site visit by qualified biologists, the upland vegetation cover types affected by the Harlem River Yards Alternative can be categorized as terrestrial cultural communities. Terrestrial cultural communities have been either created and maintained by human activities, or modified by human influence to such a degree that the physical conformation of the substrate or the biological composition of the resident community is substantially different from the character of the substrate or community that existed prior to human influence (Edinger et al. 2002). Further discussion of this subset of vegetation communities can be found in Section 1.2.4 of the Original Application and Section 4.1 of Exhibit 121. A review of the NYS Department of Environmental Conservation ("NYSDEC") Natural Heritage Community Occurrences database found no sites within six-hundred (600) feet of the proposed cable route centerline. The vegetative communities affected by the Harlem River Yard Alternative are similar to those found surrounding the Certified Route. Vegetation clearing within the construction zone will be avoided or minimized by installing the cables in existing paved pathways, and implementing BMPs, and restoration activities, such as soil stabilization and temporary seeding of any disturbed areas, will be undertaken following construction. There will be no adverse impacts associated with Natural Heritage Community Occurrences sites.

50. Wetlands and Water Resources (§4.5): There are no NYSDEC or National Wetland Inventory ("NWI") freshwater wetlands within one hundred (100) feet of the proposed cable route centerline. A NYSDEC tidal wetland area classified as Littoral Zone is located along the shoreline

of the Bronx Kill, and portions of this wetland extend to the east of the Robert F. Kennedy Bridge. The Harlem River Yard Alternative could be as close as twenty (20) feet to the shoreline, but no disturbance will take place along the shoreline, and erosion and sediment control measures will be in place wherever construction occurs. The nature of impacts from the construction and operation of the Harlem River Yard Alternative are expected to be temporary and include 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. Furthermore, the implementation of BMPs and the Stormwater Pollution Prevention Plan ("SWPPP") will prevent water quality issues. The Harlem River Yard Alternative will cross under the beds of the Harlem River, Bronx Kill, and East River. The use of HDD technology to install the cables beneath these waterbodies will avoid environmental impacts by eliminating the need for shoreline trenching and disturbance of the shallow water interface between land and water.

51. Physical and Chemical Characteristics of Major Aquatic Systems (§4.6): For all water crossings and water to land transitions, the Applicants will utilize HDD technology to avoid adverse environmental impacts to major aquatic systems.

52. Fisheries (§4.7): For all water crossings and water to land transitions, the Applicants will utilize HDD technology to avoid adverse environmental impacts to fisheries.

53. Wildlife (§4.8): The Applicants have minimized long-term impacts to terrestrial wildlife habitats by primarily routing the transmission cable route within previously disturbed areas. 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, if any, are expected to move into similar

adjacent habitats within the Park during construction and return to the area once construction is completed. It is expected that any wildlife species on Randall's Island will be well adapted to human activity. 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 re-vegetate naturally. Because the cables 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 may be required. These impacts are anticipated to be consistent with those previously considered with respect to the corresponding section of the Certified Route. In addition, the area surrounding the Park is not considered to be prime habitat due to its previously disturbed and urban setting.

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 Conditions 51 and 52 of the Certificate Conditions, the BMPs, and EM&CP Guidelines. Given the proximity of the Harlem River Yard Alternative to the Certified Route, the previously 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 Harlem River Yard Alternative compared to the corresponding section of the Certified Route. In addition, the Project area is not considered to be prime habitat for any special or unique species due to its previously disturbed and urban setting.

55. Historic and Archeological Resources (§4.10): The Applicants completed a Phase 1A assessment of this Harlem River Yard Alternative to identify archeological sites, both pre-contact and historic. As was the case with the previously approved Astoria-Rainey Cable alternative, the report concluded that the history of the area suggests it is unlikely that any archaeological resources would be preserved within the Area of Potential Effects ("APE") associated with the Project route and therefore no further studies were necessary. This report has been submitted to the NYS Office of Parks, Recreation and Historic Preservation ("OPRHP"). Moreover, the Applicants developed a Cultural Resources Management Plan that was reviewed by the OPRHP that details resource evaluation, avoidance practices, and impact minimization measures that will be undertaken, including procedures to be followed if resource discoveries are made during Project construction. The Applicants will adhere to the protocols laid out in that document for construction and operation of the Harlem River Yard Alternative.

56. Visual and Aesthetic Resources (§4.11): Burial of the cables primarily within previously disturbed lands will minimize impacts on visual and aesthetic resources, in marked contrast to the traditional overhead transmission lines that still abound in NYC. The nature of potential aesthetic impacts will include limited and temporary impacts on areas of public interest (including parks). However, these aesthetic impacts will be minimized by the Applicants through revegetation, tree protection measures, and the installation of bankside warning signs in areas where visual contrasts are minimized due to existing shoreline development, thus reducing viewer sensitivity. These visual and aesthetic impacts are anticipated to be consistent with those associated with the corresponding section of the Certified Route.

57. Noise (§4.12): All noise impacts associated with the construction of the Harlem River Yard Alternative will be commensurate with those assessed in connection with the

corresponding section of the Certified Route. Construction noise will be temporary in nature and the impact will vary depending upon the construction equipment in use and existing background or ambient noise at given times and locations. As is the case with all sections of the Certified Route, there will be no permanent noise impacts.

58. Public Health (§4.13): The public health impacts associated with the Harlem River Yard Alternative, 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 summarized above, the Harlem River Yard Alternative, when compared to the corresponding section of the Certified Route, does not create a material increase in any environmental impacts. The Harlem River Yard Alternative provides an appropriate balance among the various stakeholder interests, and it represents the minimum adverse environmental impact attainable, taking into account the state of available technology, environmental and engineering constraints, and other pertinent considerations.

Augmentation of the Deviation Zone in Rockland County in Select Locations

The environmental impacts associated with the proposed Rockland County Preferred Alternative were thoroughly reviewed in the context of the Commission's review and approval of the Amendment 2 Petition, which included a summary analysis at Section III thereof as well as the "Assessment of Environmental Impacts Associated with Preferred Alternatives" report provided in Appendix G to that document. The assessment tracked the structure utilized above and in the Original Application (Exhibit 4 and Exhibit 121).

60. This earlier analysis concluded that there would be no material increase in environmental impacts associated with the Rockland County Preferred Alternative compared to those associated with the corresponding section of the Certified Route. The Rockland County Preferred Alternative, even as augmented as proposed, still minimizes environmental impacts by proposing to install the cables primarily within the State Route 9W ROW, which is a heavily used commercial road generally devoid of environmental resources, including wetlands.

61. The proposed locations for the five splice locations will be immediately adjacent to the Rockland County Preferred Alternative, primarily under paved surfaces and will not result in any significant deviations from the location of that routing. The approximate size of the impacted area for each splice location is 30' by 100' or less than 1/10th of an acre. Due to the close proximity of the proposed route augmentation compared to the Certified Route, the setting (e.g. Geology, Topography, Soil; Land Use; Historic and Archeological Resources) and environmental resources (e.g. Wildlife, Threatened and Endangered Species; Vegetation and Natural Communities; Wetlands and Water Resources) are expected to be essentially identical, with only insubstantial variations. There will be no changes to aquatic resources (e.g. Aquatic Systems; Fisheries) or

those related to construction and operation (e.g. Recreation; Visual and Aesthetic Resources; Noise; Public Health). In addition, the splice locations are not adjacent to bus stops, park and rides, or access to emergency facilities such as hospitals, fire stations, and police stations, and therefore should have no impact on these facilities.

62. Based on this analysis, the location of the splices as proposed do not create a material increase in any environmental impacts previously considered by the Commission. The re-location of the splice locations outside of the immediate road ROW provides an appropriate balance among the various stakeholder interests, and it represents the minimum adverse environmental impact attainable, considering the state of available technology, environmental and engineering constraints, and other pertinent considerations. Furthermore, the re-location of the splice vaults will continue to avoid or minimize the disturbance of natural habitat through the extensive use of previously disturbed areas to the extent feasible, thereby reducing environmental disturbance and aesthetic impacts.

IV. CONCLUSION

For the reasons set forth herein, CHPE, LLC and CHPE Properties, Inc. respectfully the Certificate be amended as specified above.

Dated: October 9, 2020

Respectfully submitted,

/s/ ***Steven D. Wilson***

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