

# Young / Sommer LLC

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September 21, 2022

Hon. Michelle Phillips, Secretary  
NYS Public Service Commission  
Three Empire State Plaza  
Albany, NY 12223-1350

**Re: 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 for the Construction, Operation and Maintenance of a High Voltage Direct Current Circuit from the Canadian Border to New York City**

Dear Secretary Phillips:

Enclosed please find the confidential revised version of Appendix O, Cultural Resources Management Plan, for the Segment 1 and 2 Environmental Management and Construction Plan (EM&CP) filed today for the electric transmission project known as the Champlain Hudson Power Express Project (the "Project") by Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (together "CHPE" or the "Certificate Holders"). This document is protected from disclosure by POL § 87(2)(a), which grants a FOIL exemption to any information that is specifically identified as protected from disclosure under other provisions of State or federal law.

Both the federal and State historic preservation acts contain provisions authorizing agencies to withhold from disclosure information on the location of archaeological sites to protect against possible damage. Of particular note, New York State Historic Preservation Law § 14.07 authorizes the withholding of information on archaeological sites from the public where sites "may be damaged by unauthorized investigators if their locations be generally publicized." See 9 NYCRR § 427.8; see also 54 USC § 307103(a) (authorizing federal agencies to withhold from public disclosure information on the location of historic property if it is determined that disclosure may risk harm to the property). Consistent with these provisions, the Commission has recognized the need to protect the location of archaeological sites from disclosure. *See, e.g., Case 12-T-0248, Application of New York State Electric & Gas Corp., Order on Waiver Requests* (Sept. 14, 2012).

With respect to Appendix O, CHPE is seeking confidential protection for this material, which provides information regarding the location of archaeological resources proximate to Segments 1 and 2 of the Project. This information was assembled for purposes of informing Facility design and to facilitate avoidance of impacts to important cultural resources to the maximum extent practicable. Making this information available to the public would facilitate identification/location of these

resources, increasing the potential risk of damage by third parties. Consistent with the laws identified above, this information should be protected from disclosure. The State has determined that the goals advanced by keeping this information confidential—protecting the locations where archaeological resources may be found to prevent harm to those resources by “unauthorized investigators”—outweighs the public’s general interest in free access to government information.

Please feel free to reach out to my office with any questions regarding this filing.

Sincerely,

*/s/ Laura Bomyea Darling*  
Laura Bomyea Darling, Esq.  
Young/Sommer LLC  
*Attorneys for CHPE*

Enclosures