

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on February 16, 2023

COMMISSIONERS PRESENT:

Rory M. Christian, Chair  
Diane X. Burman  
James S. Alesi  
Tracey A. Edwards  
John B. Howard  
David J. Valesky  
John B. Maggiore

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

ORDER APPROVING ENVIRONMENTAL MANAGEMENT AND CONSTRUCTION PLAN  
FOR LAYDOWN YARDS SUBJECT TO CONDITIONS

(Issued and Effective February 21, 2023)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

On April 18, 2013, the Public Service Commission  
(Commission) issued a Certificate of Environmental Compatibility  
and Public Need (CECPN or Certificate)<sup>1</sup> to Champlain Hudson Power

---

<sup>1</sup> Case 10-T-0139, Order Granting Certificate of Environmental  
Compatibility and Public Need (issued April 18, 2013) (CECPN  
Order).

Express, Inc. and CHPE Properties, Inc. (Certificate Holder).<sup>2</sup> The Certificate authorizes the construction, operation, and maintenance of a High Voltage, Direct Current (HVDC) transmission line extending approximately 330 miles from the New York/Canada border to a converter station in Astoria, Queens known as the Champlain Hudson Power Express Project (Project or Facility) pursuant to the requirements of Article VII of the Public Service Law (PSL). Since its approval in 2013, the Commission has approved seven amendments to the Certificate.

The Certificate Conditions contain several requirements for compliance, including a requirement that the Certificate Holder submit for public review and Commission approval an Environmental Management and Construction Plan (EM&CP) detailing the Facility design, construction and maintenance plans, and environmental controls in accordance with the EM&CP Guidelines set forth in Appendix E to the Certificate.<sup>3</sup> The Certificate provides flexibility for the Certificate Holder to develop the Facility in segments in order to facilitate construction sequencing and scheduling.<sup>4</sup> As such, as proposed and subsequently authorized by the Commission, the Project is being divided into several overland and marine segments which

---

<sup>2</sup> For the purposes of this Order, "Certificate Holder" represents both past and current Certificate Holders. In August 2020, CHPEI 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 (issued July 17, 2020).

<sup>3</sup> CECPN Order, Certificate Conditions 6, 7, and 145 through 164.

<sup>4</sup> Id., Certificate Condition 6.

will be contained in separate design packages in the EM&CP filings.<sup>5</sup>

The Certificate Holder filed its proposed Temporary Laydown Yards EM&CP on November 17, 2022. On January 25, 2023, and February 3, 2023, the Certificate Holder filed the revised Temporary Laydown Yards EM&CP. This Order only pertains to the Temporary Laydown Yards EM&CP, as revised, which covers three temporary laydown yards proposed in the Towns of Fort Edward (Washington County), Bethlehem (Albany County) and Athens (Greene County), which will be used for construction staging, marshalling and storage during construction.

PUBLIC NOTICE

The Certificate Holder submitted its Temporary Laydown Yards EM&CP on November 17, 2022. On January 25 and February 3, 2023, the Certificate Holder filed the revised Temporary Laydown Yards EM&CP. Public notice of the EM&CP filings for review and comment was served on each party on the Service List and on residents, businesses, and building, structure, and facility owners and, to the extent known, operators of the same when such land uses are located within one hundred (100) feet of the horizontal directional drilling (HDD) staging areas, off-right-of-way construction access roads, and the overland components of the Facility, relevant railroads and owners of co-located infrastructure whose facilities, properties, and/or structures are within the geographic scope of that portion of the EM&CP that may be impacted, and made available at the public repositories listed on the Service List, in accordance with Certificate Conditions 151 through 155. As further required by

---

<sup>5</sup> See Temporary Laydown Yards EM&CP Narrative (filed November 17, 2022), Table 1-1 for a schedule of anticipated EM&CP filings.

Certificate Conditions 153 and 155, the Certificate Holder published notice in three local newspapers of general circulation in the Towns where the proposed laydown yards are located. In accordance with Certificate Conditions 153 and 155, on January 25, 2023, the Certificate Holder filed affidavits of service and proofs of publication. In addition, the Certificate Holder posted the Temporary Laydown Yards EM&CP on its Project website.

The 30-day comment period, required by Certificate Condition 155(a)(8), ended on December 17, 2022. Four public comments have been received since the filing of the Laydown Yards EM&CP on November 17, 2022. None of the public comments pertain to the portions of the Project covered by the Temporary Laydown Yards EM&CP that is the subject of this Order. Any pertinent comments previously submitted, and any additional comments received, will be addressed during the review of the relevant future EM&CP segments.

Staff of the Department of Public Service (DPS Staff), and the Department of Environmental Conservation (NYSDEC) provided informal comments and recommendations and took part in technical meetings with the Certificate Holder. The agencies' comments were subsequently addressed by the Certificate Holder in its January 25, 2023, and February 3, 2023, revised Temporary Laydown Yards EM&CP filings. No comments related to the Temporary Laydown Yards EM&CP filings have been received from community members, the various Parties, or affected municipalities.

This Order approves the EM&CP for the Temporary Laydown Yards, as revised, so that the Certificate Holder may begin construction of the laydown yards in support of the Facility, pursuant to the Certificate.

THE EM&CP, COMMENTS AND RESPONSES

As filed on January 25, 2023, and February 3, 2023, the Certificate Holder's revised Temporary Laydown Yards EM&CP provides both typical and site-specific techniques, procedures, and requirements to be followed in development of the Project by the Certificate Holder to ensure environmental protection. The Temporary Laydown Yards EM&CP identifies and defines the scope of work relevant to this phase, including construction access; protective measures for streams, wetlands, threatened and endangered species, cultural resources, scenic resources, and recreational areas; and the Certificate Holder's organizational framework to ensure implementation of the EM&CP. In addition, the EM&CP contains a plan for removal and restoration of the laydown yards once construction is completed. The standards for the EM&CP are described in the Joint Proposal and its appendices, particularly the Certificate Conditions (Appendix C of the Certificate), EM&CP Guidelines (Appendix E of the Certificate) and the Best Management Practices (BMPs) (Appendix F to the Certificate).

DPS Staff

DPS Staff reviewed the Temporary Laydown Yards EM&CP and provided informal comments, participated in technical meetings, and provided recommendations to the Certificate Holder and its consultants. DPS Staff suggested revisions to the Plan designs as well as other parts of the EM&CP such as the Soil and Materials Management Plan and the Project's Stormwater Management Plan. In addition, Staff requested revisions or clarification on subject areas including tree clearing, and traffic controls. DPS Staff's recommendations were adequately addressed and resolved in the revised Laydown Yards EM&CP filed on January 25, and February 3, 2023.

DPS Staff also provided comments to the Certificate Holder requesting verification that the New York State Historic Preservation Office (NYSHPO) has reviewed and accepted the Supplemental Cultural Resources Management Plan (CRMP) included as Appendix O of the Temporary Laydown Yards EM&CP. . In its revised Supplemental CRMP for the laydown yards (i.e., revised Appendix O), filed on January 25, 2023, the Certificate Holder included a copy of correspondence with NYSHPO dated December 29, 2023, indicating concurrence that no archaeological testing or monitoring is warranted for the proposed laydown yards and requiring certain edits and clarifications to the Supplemental CRMP for laydown yards at Section 4.7 ("Programmatic Allowances"). The edits and clarifications required by NYSHPO included defining "vertical improvements," clarifying locations where ground disturbances are allowed in historic properties, recommendations for future NYSHPO review for potential off-site wetland mitigation areas, and a clarification regarding the scope of landscaping for habitat. DPS Staff reviewed the revised Supplemental CRMP for the laydown yards and confirmed that the edits and clarification required by NYSHPO were adequately addressed, thus resolving DPS Staff's and NYSHPO's concerns.

NYSDEC Staff

NYSDEC Staff reviewed the Temporary Laydown Yards EM&CP and provided informal comments and recommendations and took part in technical meetings with the Certificate Holder and its consultants. NYSDEC Staff suggested revisions to the EM&CP Plan designs and other parts of the EM&CP primarily with respect to rare, threatened and endangered species, wetlands and waterbodies, the Project's stormwater management, and material storage.

NYSDEC Staff advises that the Certificate Holder adequately addressed all of NYSDEC Staff's comments in the January 25, 2023 and February 3, 2023 revisions of the Temporary Laydown Yards EM&CP.

DISCUSSION AND CONCLUSION

As noted above, DPS Staff, and NYSDEC Staff raised various concerns and suggestions regarding the details of the proposed Temporary Laydown Yards EM&CP. The Certificate Holder incorporated and resolved the agencies' feedback in its January 25, 2023 and February 3, 2023 EM&CP filings.

Upon review, DPS Staff advises that the revised Temporary Laydown Yards EM&CP complies with the applicable Certificate Conditions and adheres to the EM&CP Guidelines and BMPs included as Appendix E and Appendix F to the Certificate, respectively. DPS Staff further advises that in order for the Certificate Holder to meet its construction schedule, the Certificate Holder requested approval of its Laydown Yards EM&CP filing as soon as possible.

Upon review, the Commission finds that the Certificate Holder has adequately addressed the concerns raised by DPS and NYSDEC staffs. Based on a review of all the documents submitted, responses received, and supplemental filings made by the Certificate Holder, the revised Temporary Laydown Yards EM&CP for the Project is approved.

The Commission orders:

1. The Environmental Management and Construction Plan for Temporary Laydown Yards submitted by Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (Certificate Holder) on November 17, 2022, and supplemented on January 25, 2023, and

February 3, 2023, is approved subject to the following conditions.

2. The Certificate Holder shall not commence construction until it has received a "Notice to Proceed with Construction" letter sent by the Chief of Environmental Certification and Compliance of the Office of Electric, Gas and Water or by a designee.

3. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary