

# Young / Sommer LLC

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April 4, 2023

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

**Re: Case 10-T-0139: Request for Confidential Protection in *Application of Champlain Hudson Power Express***

Dear Secretary Phillips:

Enclosed please find confidential documents submitted with the Lake Champlain Pre-Lay Mattressing Environmental Management and Construction Plan (EM&CP) filed today by CHPE LLC and CHPE Properties, Inc. (together “CHPE” or the “Certificate Holders”) with the New York State Public Service Commission (the “Commission”). Certificate Holders are requesting confidential protection of the EM&CP Narrative, Appendix A, Pre-Lay Mattress Drawings, and Appendix D, Documentation of CI Consultations, which are confidential because they identify the location and nature of certain critical infrastructure information (CII) as defined by Public Officers Law § 86(5).

Confidential protection is routinely granted to certain documents and data submitted to State agencies and boards, including the Commission, through a suite of statutory and regulatory protections which guard such sensitive information and data from broad public release. As more fully discussed below, these protections are derived from various sources, including the statutory exemptions from disclosure under the New York Freedom of Information Law (FOIL), Public Officers Law (POL) § 87, as well as through each agency’s regulations—in this case, 16 NYCRR § 5.8(e) and Part 6.

Pursuant to POL § 89(5)(a)(1-a), any person or entity making a submission that contains CII must request protection of that information from disclosure. CII information is considered exempt from disclosure under POL § 87(2)(f)’s protection of information which, if disclosed, “could endanger the life or safety of any person” and/or § 87(2)(i)’s protection of information which, if disclosed, “would jeopardize the capacity of an agency or an entity” to ensure the security of its information technology assets, including electronic information system and infrastructure. Where the Applicant has identified that a given submission contains CII, POL § 89(5)(a)(1-a) provides automatic protections for that information to prevent its disclosure and protect the public health, safety and security of the electric grid. No further showing is required; the availability of this exemption is triggered by the presence of CII.

The documents submitted by CHPE in connection with this EM&CP contain specific locational information for certain submarine CII which should not be released to the public. Upon information and belief, some or all of this locational information is not available to the general public. Further, some of this information was generated by Certificate Holders at significant cost, through the use of utility locate efforts in Lake Champlain, to ensure that these assets were appropriately located and protected during installation of the CHPE line, as proposed in this EM&CP. For these reasons, these documents should be exempted from public disclosure.

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