

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on July 20, 2023

COMMISSIONERS PRESENT:

Rory M. Christian, Chair  
Diane X. Burman  
James S. Alesi  
Tracey A. Edwards, recusing  
John B. Howard, dissenting  
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 SEGMENT 18A  
SUBJECT TO CONDITIONS

(Issued and Effective July 20, 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  
Express, Inc. and CHPE Properties, Inc. (CHPE or Certificate

---

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

Holder).<sup>2</sup> The Certificate authorizes the construction, operation, and maintenance of a High Voltage, Direct Current 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 Holders 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 Holders 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 Holders" 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 Holders filed the Lake Champlain Pre-Lay Mattressing (Segment 18A) EM&CP on April 4, 2023, and filed revisions to the Segment 18A EM&CP on June 21 and June 22, 2023. This Order only pertains to the Segment 18A EM&CP, as revised, which covers the installation of concrete mattresses to protect co-located submarine infrastructure in Lake Champlain in the Towns of Champlain and Chazy, Clinton County, and the Towns of Crown Point and Ticonderoga, Essex County.

PUBLIC NOTICE

The Certificate Holders filed their proposed Segment 18A EM&CP on April 4, 2023. On June 21, and June 22, 2023, the Certificate Holders filed revisions to the Segment 18A EM&CP. Public notice of the EM&CP filings for review and comment was served on each party on the Service List, the chief executive officers of all New York State Towns, Villages, Cities, and Counties located on the shores of that portion of Lake Champlain where the Facility will be located, the Adirondack Park Agency, 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. Due to the in-water location of the work in Segment 18A, no landowners, residents, businesses, railroads, or owners of structures with foundations required notice pursuant to the requirements of Certificate Conditions 152 through 154. As further required by Certificate Conditions 153 and 155, the

---

<sup>5</sup> See Segment 18A EM&CP Narrative (filed April 4, 2023), Table 1.1 for a schedule of anticipated EM&CP filings.

Certificate Holders published notice in two local newspapers of general circulation in the Towns where the proposed Segment 18A is located. In accordance with Certificate Conditions 153 and 155, on June 28, 2023, the Certificate Holders filed the affidavits of service and proofs of publication.

The 30-day comment period, required by Certificate Condition 155(a)(8), ended on May 3, 2023, for the Segment 18A EM&CP. No public comments pertinent to the Segment 18A EM&CP were received. Any comments previously submitted, and any additional comments received, that are pertinent to future EM&CP segments, will be addressed during the review of the relevant EM&CP filings.

Staffs of the Department of Public Service (DPS) and the Department of Environmental Conservation (NYSDEC) provided informal comments and recommendations and took part in technical meetings with the Certificate Holders.

This Order approves the Segment 18A EM&CP, as revised, so that the Certificate Holders may begin the installation of pre-lay mattresses within the Lake Champlain segment, pursuant to the Certificate.

#### THE EM&CP, COMMENTS AND RESPONSES

The Certificate Holders' Segment 18A EM&CP, as filed on April 4, 2023, and revised on June 21, and June 22, 2023, provides both typical and site-specific techniques, procedures, and requirements to be followed in development of the Project by the Certificate Holders to ensure environmental impacts avoidance, minimization, and mitigation. The Segment 18A EM&CP identifies and defines the scope of work relevant to this phase for the construction and installation of concrete mattresses to protect co-located submarine infrastructure in preparation for future submarine cable installation in Lake Champlain,

including: construction access; protective measures for the Lake Champlain waterbody, threatened and endangered species, and co-located infrastructure; and the Certificate Holders' organizational framework to ensure implementation of the EM&CP. 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 Segment 18A EM&CP and provided informal comments, participated in technical meetings, and provided recommendations to the Certificate Holders and its consultants. DPS Staff suggested revisions to the design plans and other parts of the EM&CP. In addition, DPS Staff requested revisions or clarification on subject areas including co-located infrastructure, Project parking, and general site-specific information.

The Commission is advised that DPS Staff's recommendations were adequately addressed and resolved in the revised Segment 18A EM&CP filed on June 21, and June 22, 2023.

NYSDEC Staff

NYSDEC Staff reviewed the Segment 18A EM&CP and provided informal comments and recommendations and took part in technical meetings with the Certificate Holders and its consultants. NYSDEC Staff suggested revisions to the EM&CP design plans and other parts of the EM&CP primarily with respect to rare, threatened, and endangered species; the Lake Champlain waterbody; and the Project's spill prevention plan.

The Commission is advised that the Certificate Holders adequately addressed all NYSDEC Staff's comments in the revised Segment 18A EM&CP as filed on June 21, and June 22, 2023.

DISCUSSION AND CONCLUSION

As noted above, DPS Staff and NYSDEC Staff raised various concerns and suggestions regarding the details of the proposed Segment 18A EM&CP. The Certificate Holders incorporated and resolved the agencies' feedback in their June 21, and June 22, 2023 revisions to the EM&CP filings.

Based upon its review, DPS Staff advises that the revised Segment 18A 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.

Upon review, the Commission finds that the Certificate Holders have adequately addressed the concerns raised by DPS and NYSDEC Staff. Based on a review of all the documents submitted, responses received, and revised filings made by the Certificate Holders, the revised Segment 18A EM&CP for the Project, is approved.

The Commission orders:

1. The Environmental Management and Construction Plan for the Lake Champlain Pre-Lay Mattressing (Segment 18A) submitted by Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (Certificate Holders) on April 4, 2023, and revised on June 21, and June 22, 2023, is approved subject to the following conditions.

2. Prior to construction activity affecting Co-located Infrastructure ("CI"), Certificate Holders shall file any final Agreement (including Road Use Agreements) required by CI owner

and/or operator related to existing facilities located within the Construction Zone approved in the EM&CP for the Facility, or a proposed Construction Zone as provided for in Certificate Condition 28(d), and any CI that is either owned by a State agency or municipality, or a subdivision thereof, or owned or operated for public utility purposes by a regulated electric, gas, telecommunication, water, wastewater, sewer, or steam service provider. If a formal agreement is not required by such owner and/or operator of the CI being crossed (or encroached upon), Certificate Holders shall file a copy of an acknowledgement from the CI owner and/or operator indicating general agreement of crossing or encroachment designs affecting such existing CI ("acknowledgment"), provided that such acknowledgment was not filed with Segment 18A EM&CP. Along with final Agreements, or acknowledgments (not already included in the Segment 18A EM&CP), Certificate Holders shall provide final design plans including the location of the existing CI facilities in relation to the proposed Project facilities, means of crossing, descriptions of any safety procedures to be implemented during installation, and proposed mitigation measures for protection of existing facilities. For instances when Agreements or acknowledgments are not secured due to unresponsive CI owners and or operators, the Certificate Holders shall file, prior to requesting a Notice to Proceed with construction related to the Segment 18A EM&CP, a narrative describing efforts made in attempting to contact such unresponsive CI owners and or operators. If any designs (finalized through Agreements, acknowledgments, or field verified locations of existing CI) affecting existing CI result in modification to the proposed location or design of the transmission route or related facilities contained in the Segment 18A EM&CP, then the Certificate Holders shall address

and request approval for such changes in accordance with the Certificate and any applicable regulations.

3. The Certificate Holders shall not commence construction until they have received a "Notice to Proceed with Construction" letter sent by the Chief of Environmental Certification and Compliance of the Office of Energy System Planning and Performance, or by a designee.

4. The Certificate Holders shall attempt to schedule construction activities on the Project right-of-way to occur between the hours of 7:00 a.m. through 7:00 p.m. Monday through Saturday, and attempt to avoid construction on Sundays or federal or State holidays. If construction activities are required to occur on a Sunday or holiday or after 7:00 p.m. any day (Extended Work), Certificate Holders shall implement noise impact avoidance measures outlined in Section 9 of the EM&CP for such Extended Work, or as otherwise determined necessary in consultation with Department of Public Service Staff. In pre-construction notices distributed to the community, Certificate Holders shall identify where and when Extended Work is anticipated within this Segment, to the maximum extent practicable.

5. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary