

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on March 20, 2025

COMMISSIONERS PRESENT:

Rory M. Christian, Chair
James S. Alesi
David J. Valesky
John B. Maggiore
Uchenna S. Bright
Denise M. Sheehan
Radina R. Valova

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 20B SUBJECT TO CONDITIONS

(Issued and Effective March 24, 2025)

BY THE COMMISSION:

INTRODUCTION

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

¹ 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 Holders).² The Certificate, issued pursuant to the requirements of Article VII of the Public Service Law, 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. It is known as the Champlain Hudson Power Express Project (Project or Facility). Since its approval in 2013, the Commission has approved multiple 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. The Certificate provides flexibility for the Certificate Holders to develop the Facility in segments in order to facilitate construction sequencing and scheduling.³ As such, as proposed and subsequently authorized by the Commission, the Project was

² 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).

³ Id., Certificate Condition 6.

divided into several overland and marine segments, which were contained in separate design packages in the EM&CP filings.⁴

Through this Order, the Commission approves the Segment 20B EM&CP, as filed on January 16, 2025, and revised February 14, February 19, and March 4, 2025, consistent with the discussion herein.

PUBLIC NOTICE

The Certificate Holders filed the proposed Segment 20B EM&CP on January 16, 2025. On February 14, February 19, and March 4, 2025, the Certificate Holders submitted revisions to the Segment 20B EM&CP. Public notice of the Segment 20B EM&CP filings was served on each party on the Service List and on residents; businesses; building, structure, and facility owners; 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 for their review and comment. The Segment 20B EM&CP filings were also made available at the public repositories listed on the Service List, in accordance with Certificate Conditions 151 through 155. As further required by Certificate Conditions 153 and 155, the Certificate Holders published notice in local newspapers of general circulation for nearby locations of proposed construction activities in Segment 20B. In accordance with Certificate Conditions 153 and 155, on February 27, 2025, the Certificate Holders filed the affidavits of service and proofs of publication.

⁴ See the Segment 20B EM&CP Narrative, Table 1.1, filed January 16, 2025, for a schedule of approved and anticipated EM&CP filings.

THE EM&CP, COMMENTS, AND RESPONSES

The Certificate Holders filed their proposed Segment 20B EM&CP on January 16, 2025. On February 14, February 19, and March 4, 2025, the Certificate Holders filed revisions to the Segment 20B EM&CP. This Order pertains to the Segment 20B EM&CP, as revised, which includes pre-installation surveys, debris removal, and the installation and protection of underwater HVDC power cables and one fiber optic cable in the Harlem River.

Segment 20B includes an approximately 6.2-mile cable route entirely within the Harlem River, beginning at a set of pre-installed landfall conduits in the Port Morris neighborhood of the Borough of the Bronx, Bronx County, New York, and ending near the confluence of the Harlem and Hudson Rivers, several hundred feet west of the Spuyten Duyvil Bridge. During installation, the cable bundle will be armored with a cable protection system/articulated pipe protection (CPS/APP). The armored cable bundle will be surface laid on the Harlem riverbed and installed in a single continuous segment. As described by CHPE, the cable will be laid in a manner which can accommodate future US Army Corps of Engineers (USACE) dredging activities in the Harlem River.

The Certificate Holders Segment 20B EM&CP, as filed January 16, 2025, and revised on February 14, February 19, and March 4, 2025, provides both typically applied 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 20B EM&CP identifies and defines the scope of work relevant to this construction phase. The EM&CP addresses construction access, protective measures for the Harlem River waterbody, threatened and endangered species, co-located

infrastructure, and the Certificate Holders organizational framework to ensure implementation of the EM&CP.

Allowed Deviation Zone

The Certificate Order approved a Facility route, which is depicted on a series of maps included in Appendix B of the Joint Proposal showing a nominal centerline and an Allowed Deviation Zone (ADZ). This route was subsequently modified in January 2021, as amended by Certificate Amendment 3.⁵

As set forth in Certificate Condition 156(b), "For the HVDC Transmission System installed in ... the Harlem and East Rivers the Allowed Deviation Zone ... shall be anywhere where the water depth exceeds ten (10) feet at mean low water" Certificate Condition 157 further provides that "[a]ll deviations from the design depth, height, and location of facilities or structures shall be presented in the proposed EM&CP for approval." Additionally, Certificate Condition 157 provides that "[d]eviations shall be allowed for appropriate environmental or engineering reasons without modification to this Certificate, except where a conflict with a specific provision of this Certificate would be created."

According to the Certificate Holders, all work will be located within the ADZ for Segment 20B, except for one location near the Spuyten Duyvil Bridge. In accordance with Certificate Condition 157, the Certificate Holders submitted "Justification for Excursions Outside the Deviation Zone" as Appendix 3-B to the Segment 20B EM&CP on January 16, 2025. The appendix explains that the deviation from the ADZ is needed to avoid uneven river bottom. The proposed alternative location allows the cable to be installed in a stable area characterized by a

⁵ Case 10-T-0139, Order Granting Amendment of Certificate of Environmental Compatibility and Public Need Subject to Conditions (issued January 26, 2021).

smooth riverbed. With relatively high currents present, the smooth riverbed is preferred from an engineering and feasibility standpoint. Furthermore, the vessel used for installation requires adequate space relative to the Spuyten Duyvil Bridge pier to make the turn to the east, resulting in a deviation from the Certified Route that is greater than 150 feet.

DPS Staff

DPS staff reviewed the Segment 20B EM&CP and provided informal comments and recommendations and took part in technical meetings with the Certificate Holders and their consultants. DPS staff provided comments and suggested revisions regarding potential navigation impacts, including confirmation that such impacts were reviewed by all applicable reviewing agencies, and proposed decommissioning provisions related to facility installation on the riverbed. CHPE addressed the comments as part of supplemental EM&CP filings.

The Commission is advised that the Certificate Holders adequately addressed all DPS staff comments relating to the Segment 20B EM&CP, as filed on January 16, 2025, and revised on February 14, February 19, and March 4, 2025.

NYSDEC Staff

NYS Department of Environmental Conservation (NYSDEC) staff reviewed and provided comments related to the Segment 20B EM&CP on the following topics: provisions for decommissioning of the Project within the Harlem River, details pertaining to the proposed installation methods, managing the schedule related to the anticipated time of year restrictions, logistics of the filed Site Specific Health & Safety Plan and details of the filed Electric and Magnetic Field Assessment related to aquatic species.

Based on their review, NYSDEC staff concluded that the Certificate Holders adequately addressed its comments relating

to the Segment 20B EM&CP, as filed on January 16, 2025, and revised on February 14, February 19, and March 4, 2025.

However, NYSDEC staff advise that the Certificate Holders should be required to consult with the agencies prior to decommissioning the Facility in the Harlem River.

NYSDOS

On March 7, 2025, the NYS Department of State (NYSDOS) issued a letter informing CHPE that NYSDOS had determined their request to surface lay the cable on the 6.2 mile stretch of the Harlem River would not result in coastal effects substantially different from those previously reviewed. Based upon its determination of no substantially different coastal effects, NYSDOS revised a portion of Condition 1 from its June 8, 2011 Conditional Concurrence that required burial of the submarine cable for the in-water portion of the project to allow surface lay of the cable at this location only, meaning as applied to the 6.2-mile reach of the Harlem River.

Public Comments

The 30-day comment period, required by Certificate Condition 155(a)(8), ended on February 18, 2025, for the Segment 20B EM&CP. Comments were received from Riverkeeper, Inc. (Riverkeeper), the New York Power Authority (NYPA), the United States Coast Guard (USCG), and the City of New York (City).

On February 13, 2025, Riverkeeper filed a public comment document raising issues related to: the Certificate Holders' proposed CPS; the monitoring of environmental impacts; methods to protect or stabilize the cables immediately following installation; cable storage in the Hudson River; timing around the anticipated Maintenance and Emergency Action Plan; and CHPE's compliance with Certificate Conditions 95(a) and 161.

On February 14, 2025, NYPA filed a public comment in which it requested the Commission "withhold approving Segment

20B EM&CP and direct CHPE to continue discussions with NYPA to identify a route within Segment 20B that will accommodate both [CHPE and Clean Path].” Based on its understanding of the Facility’s route in the Harlem River, NYPA asserts that the route would prohibit the installation of the Clean Path project.

On February 14, 2025, the USCG submitted a public comment in which it requested additional clarifying information be added to Section 5.5.3 of the Segment 20B EM&CP Narrative to more clearly explain the temporary storage of cables at the confluence of the Harlem and Hudson Rivers during the period between the end of the Harlem installation work (Segment 20B) and the opening of seasonal work windows in the southern Hudson River (Segment 19B). The USCG also states that it has the same comments regarding the Navigation Risk Assessment (NRA) that it had for the Segment 19B EM&CP, especially those related to the risk of anchor snags.

On February 28, 2025, CHPE filed a response to public comments on the EM&CP Segment 20B. In response to Riverkeeper, CHPE provided details on the proposed CPS, described its monitoring procedures included in the EM&CP, and noted its emergency management followed requirements of Certificate Condition 161. Additionally, CHPE explained that the proposed cable installation method complies with Certificate Conditions 95(a), 159(ff), and 161. Regarding Condition 95(a), CHPE asserts that the required depths of burial are those authorized by the USACE in CHPE’s federal permit and as affirmed by NYSDOS in its Coastal Zone Management Act determination. CHPE also notes that there is no requirement in Condition 95(a)(i) that a jet plow be used for installation in the Federal Navigation Channel; rather, this condition requires that CHPE use installation techniques for underwater cable installation activities that are appropriate for the prevailing substrate

conditions. The Certificate Holders responded that they demonstrated in the Segment 20B EM&CP that the prevailing substrate conditions, including the presence of significant co-located infrastructure, do not permit use of a jet plow in the Harlem River, and, therefore, Segment 20B complies with Certificate Condition 95(a).

In its letter, Riverkeeper also refers to the requirement of Certificate Condition 95 that no change in the installation technology or burial depth shall be allowed without a written statement from NYSDOS. Such written statement was provided on March 7, 2025.

In the response letter, CHPE urges the Commission not to delay approval of the Segment 20B EM&CP and offers clarification to NYPA's assumptions. Foremost, the Clean Path project is still seeking State and federal permits.⁶ CHPE indicates that the route in the Harlem River was specifically designed to allow future parallel transmission projects to co-exist. As part of the response letter, CHPE provided two engineering studies asserting that parallel construction of a second HVDC transmission line in the Harlem River is feasible

⁶ It should be noted that Clean Path's Project does not have an Article VII certificate of environmental compatibility and public need from the Commission. See Case 22-T-0058, Application of New York Power Authority and Clean Path New York LLC for a Certificate of Environmental Compatibility and Public Need for the Construction of Approximately 178 miles of Transmission Lines and Associated Facilities From Delhi, New York, to Queens, New York. NYPA also has a petition pending before the Commission requesting that the Commission designate the Clean Path Project as a Priority Transmission Project to accelerate its development. See Case 20-E-0197, Proceeding on Motion of the Commission to Implement Transmission Planning Pursuant to the Accelerated Renewable Energy Growth and Community Benefit Act, Clean Path Transmission Project PTP Updated (filed January 24, 2025)

and consistent with Good Utility Practice.⁷ Both reports conclude that two HVDC facilities could be safely and reliably installed and operated with an approximate separation of 10 feet between facilities. CHPE's routing design adheres to a general separation of 50 feet from the proposed Clean Path route, except in limited congested areas such as routing around bridge abutments, existing infrastructure constraints and cultural artifacts, where the separation decreases to approximately 30 feet. The Certificate Holders further indicate that NYPA has not provided studies indicating that the proposed separations are insufficient or that the Clean Path routing is infeasible, or that any reasonable single contingency concern exists particularly in the Harlem River, which is home to dense pockets of existing utility infrastructure that has operated there in close proximity for decades. CHPE requests that the Commission reject the relief sought by NYPA of withholding approval of the Segment 20B EM&CP unless and until NYPA is satisfied with CHPE's routing. CHPE characterizes NYPA's request for relief as extraordinary and unduly prejudicial. Instead, CHPE respectfully requests that the Commission approve the Segment 20B EM&CP without delay to facilitate CHPE's planned 2025 Harlem River construction schedule and May 2026 COD.

On February 24, 2025, the City filed a public comment in which the City urges the Commission to reject NYPA's and Riverkeeper's requests to withhold approval of the Segment 20B EM&CP. The City notes that it has a significant interest in the CHPE Project, as the line, once operational, will allow hundreds of megawatts of polluting peaking generating units to shut down,

⁷ Attachment 1 was completed by Blackfin, which specializes in offshore utility installation, and Attachment 2 was completed by WSP, an engineering consulting firm. Case 10-T-0139, CHPE Response to Comments on Harlem River EM&CP (filed February 28, 2025).

reduce harmful air emissions and improve local air quality, and assist the State of New York in achieving its important decarbonization policy goals. Additionally, the City states that the construction of the CHPE Project is over 50% complete, whereas, NYPA's Clean Path Project has not yet been approved by the Commission, and the Article VII permitting process for NYPA's project has been suspended for an indefinite amount of time. In light of some of Riverkeeper's comments, however, the City indicates that more details regarding operation of the cable may be warranted at a later time.

CHPE revised its Narrative in the EM&CP revision filed on March 4, 2025, to include a detailed explanation of the process for temporary storage of cables and how it relates to the seasonal work windows. Regarding the NRA, in the response letter, CHPE notes that the Harlem River Cable Installation work will adhere to the current NRA Appendix D and H, referenced by the USCG in its comments, and the recommendations from the agency regarding anchor function, emergency measures, and anchor snag protocols are noted. The Certificate Holders added that they have closely coordinated, and will continue to closely coordinate, with USCG, USACE, and State regulators, as well as maritime stakeholders such as the Sandy Hook and Hudson River Pilots Associations and the Harbor Safety, Navigation and Operations Committee of the Port of NY/NJ (HOPs).

DISCUSSION AND CONCLUSION

As noted above, DPS staff, NYSDEC staff, and other agencies and parties (as discussed above) raised various concerns and suggestions regarding the details of the proposed Segment 20B EM&CP. DPS advises that CHPE has adequately considered and addressed all such concerns and suggestions. DPS staff further advises that the Segment 20B 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, however, recommends that the Commission adopt NYSDEC staff's recommendation to require consultation between the Certificate Holders, DPS, and DEC prior to decommissioning the Facility within the Harlem River. Given considerations specific to the Harlem River, including congestion highlighted by the public comments, we agree with DPS and NYSDEC that it is appropriate to require the Certificate Holders to consult with DPS and NYSDEC before abandoning the Facility in place in the Harlem River or removing the Facility.

DPS staff reviewed the material related to the proposed shift outside of the approved ADZ and agree that it is justified. No significant increase in permanent environmental or cultural impacts are expected from the construction and operation of the Facility within the deviation presented in the Segment 20B EM&CP.

With respect to concerns raised by NYPA regarding its plans for the Clean Path project, the Certificate does not require CHPE to reach a co-located infrastructure agreement with a facility that is not yet certified or constructed. By revising the Facility design to allow for future parallel transmission projects to coexist, the Certificate Holders have gone beyond their obligations under the Certificate. It is not appropriate to delay approval of the Segment 20B EM&CP for further negotiations on this subject.

Due to the numerous affected co-located infrastructure facilities within the Harlem River, CHPE is reminded of its obligations under Certificate Conditions 27 and 162 of the Certificate. Consistent with those requirements, CHPE shall

provide requirements of such conditions prior to requesting a Notice to Proceed.

Subject to the discussion herein, the Commission finds that the Certificate Holders have adequately addressed any concerns raised by DPS and NYSDEC staff and other agencies and parties and have complied with the requirements of the CECPN Order. Accordingly, the Segment 20B EM&CP for the Project, as revised, is approved subject to the following clauses.

The Commission orders:

1. The Environmental Management and Construction Plan for pre-installation surveys, debris removal, and the installation and protection of underwater HVDC power cables and one fiber optic cable in the Harlem River (Segment 20B) submitted by Champlain Hudson Power Express, Inc. and CHPE Properties, Inc. (Certificate Holders) on January 16, 2025, and revised on February 14, February 19, and March 4, 2025, is approved subject to Certificate Holders' compliance with Ordering Clauses 2 through 4.

2. The Certificate Holders shall not commence construction until they have received a "Notice to Proceed with Construction" letter sent by the Director of the Office of Renewable Energy Siting and Electric Transmission, or their designee.

3. For potentially impacted sensitive receptors located within the City of New York, the Certificate Holders shall comply with Certificate Condition 31 of the Certificate Order for work hour and noise mitigation requirements.

4. Prior to decommissioning the Facility in the Harlem River, the Certificate Holders shall consult with staff of the Department of Public Service and the Department of Environmental Conservation regarding plans for removal or abandonment.

5. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary