

THE SENATE
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EDUCATION

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TRANSPORTATION

December 7, 2011

Garry A. Brown, Chairman
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, New York 12223-1350

Re: Champlain Hudson Power Express, Inc. (CHPEI)
Case # 10-T-0139

Dear Chairman Brown:

Enclosed is a copy of a recent article from the Albany Times Union regarding the above-referenced matter indicating that the CHPEI transmission line is "closer to becoming a reality." Also enclosed is a copy of the Public Service Commission's July 6, 2011 ruling indicating its intention to conduct evidentiary hearings on this project. Since the July 6, 2011 ruling, CHPEI and other parties have continued to work toward a "Joint Proposal" and the next status report is due on January 10, 2012. I write today to inquire about the Commission's timeframe for reviewing this case and to urge the Commission to require comprehensive evidentiary hearings on this project and apply the strictest scrutiny possible.

As you are aware, the legislature finally adopted an Article X siting law last year. The purpose of Article X is to streamline the process for siting major electrical generating facilities. The 25 megawatt threshold was meant to encourage the siting of renewable energy projects, and it seems clear that for a variety of reasons, the majority of these projects will be sited upstate. Yet, this proposal contemplates the construction of a direct current line with no ability for upstate generators to tie into the line to transport their capacity downstate. The power will flow one way-from Canada to New York City, literally by-passing upstate New York.

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There are currently just as many megawatts of power (if not more) stranded upstate with no ability to get south and east due to our decrepit transmission system. These generators support thousands of upstate jobs and in many communities they are the lynchpin of the County tax base. Allowing this CHPEI line to proceed dooms those jobs and communities in the name of stimulating economic development in another country. Any contemplation of such a move seems unfathomable to me personally, but at the very least it requires the Commission to undertake the most thorough review in its history in order to determine if this is truly in the public's interest.

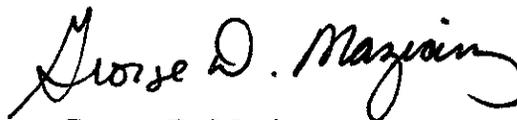
On the substance of the filings, CHPEI's most recent status report (November 23, 2011) indicates that there are "unanticipated technical difficulties" with an "unsettled matter" and that there are also a "limited number of other open issues". This language suggests that these items are minor and that they will be resolved quickly. However, closer review of the report indicates that (1) the "unsettled matter" has not even been discussed with all of the affected parties yet and (2) the discussions on the "other open issues" appear to be in their infancy. The reality of this situation is that there are significant local, regional and statewide concerns with this case that require comprehensive review. These include the following:

- Disruption of Local Communities. Installation of underground transmission lines will require substantial excavation and construction with heavy equipment and traffic in our state's more rural areas;
- Environmental Impact. Installation of transmission lines under the State's waterways creates potential problems with water quality and threatens aquatic plant and animal life;
- Energy Efficiency. The proposed direct current project does nothing for efficient energy transmission throughout the rest of the State;
- Renewable Energy Generation. Renewable energy generation is completely discouraged upstate, since the CHPEI line will only create more stranded capacity;
- Economic Development. The proposed direct current project does not allow for any participation by other energy providers which effectively snuffs out any economic development activity for energy producers in the eastern part of the State. Also, the proposed project doesn't do anything to assist in the development or support of power generation in the western part of the State where development costs are much lower.

Allowing this project to move forward is rife with risk for upstate communities. The Commission has an obligation to ensure that all concerns are fully investigated before making any determination on the future of this project.

Given the confidential nature of the settlement proceedings, it is impossible for the citizens of New York to know the specifics of the CHPEI negotiations. For this reason, the Commission must conduct a thorough analysis and review to determine if this line is in the best interest of all of the citizens of our great state. As Chairman of the Senate Energy and Telecommunications Committee, I am monitoring this situation very closely and strongly considering launching my own inquiry into this matter if a robust and critical vetting of this project is not undertaken.

Sincerely,

A handwritten signature in black ink that reads "George D. Maziarz". The signature is written in a cursive style with a large, sweeping flourish at the end.

George D. Maziarz
Senator, 62nd District
Chairman, Senate Standing Committee
on Energy and Telecommunications

GDM:jv
Cc: Jaclyn A. Brillling

Power talks turn a corner

Negotiations over electric transmission line to New York from Canada move forward

By **LARRY RULISON**
Business writer

ALBANY — A 1,000-megawatt underground electric transmission line from Quebec to New York City may be closer to becoming a reality as negotiations with governmental and environmental groups have taken on a more positive tone.

The proposed \$2 billion project — which has the financial backing of private equity giant The Blackstone Group of New York City — involves two cables, each five inches in diameter, buried under Lake Champlain and the Hudson River, with some of the 330-mile route along railroad beds.

Similar cable technology has been used for decades to transmit power across large bodies of water like the English Channel.

And because they are buried, the cables provide an aesthetic advantage over traditional transmission lines strung from large metal towers.

It was hoped that negotiations with various environmental, government and business groups held as part of the state regulatory process would have wrapped up in the summer. But they have dragged on over a contentious yet undisclosed issue, according to filings made with the state Public Service Commission, the five-person board that must approve the project.

But it looks like those talks — which involve not only the developer and state and local agencies but also environmental groups like the Adirondack Council, — may have turned the corner, accord-

Please see **POWER D2** ▶

POWER

▼ CONTINUED FROM D1

ing to a filing with the PSC late last month.

Lawyers for the developer told the PSC that “substantive discussions” are taking place on the main point of contention and that the various groups are “narrowing their differences” on other issues.

The lawyers also said it's possible that a settlement agreement could be reached before their next status report is due to the PSC on Jan. 10.

“We continue to work with all parties to reach a joint proposal and we are optimistic we will reach a settlement that will bring us another step closer to making this very important and innovative transmission project a reality,” said Andrew Rush, a spokesman for

Transmission Developers Inc., the Albany-based company that manages the project.

Such closed-door settlement talks are an alternative to having the PSC conduct a more lengthy review of the project that would be conducted much like civil litigation in which a formal series of written submissions are made to an administrative law panel that usually makes its own recommendation to the PSC.

If the private settlement talks are successful, the developer and others involved will submit their own settlement proposal to the PSC for its consideration. That is usually the preferred method in large energy projects because it is quicker and less expensive and offers a degree of control to the company trying to build the project.

▶ Reach Larry Rulison at 454-5504 or at lrulison@timesunion.com

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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.

RULING ON RESPONSES AND MOTIONS TO AMEND SCHEDULE

(Issued July 6, 2011)

KEVIN J. CASUTTO and
MICHELLE L. PHILLIPS, Administrative Law Judges:

On June 24, 2011, two responses to our Ruling on Motion to Amend Schedule (issued June 9, 2011) (June 9 Ruling) were submitted. In the "Response of Reporting Parties to Ruling on Motion to Amend Schedule" (Response),¹ the reporting parties state that the additional time provided by our June 9 Ruling allowed the parties to substantially narrow their differences and make progress on numerous technical issues. The Response contains a proposed schedule, submitted for our approval, setting forth the following filing dates:

<u>Event</u>	<u>Deadline</u>
Status report	July 15, 2011
Joint Proposal (JP)	August 12, 2011
Initial statements (support or opposition)	September 2, 2011
Reply statements (support or opposition)	September 16, 2011

The reporting parties did not propose dates for the commencement of an evidentiary hearing or the filing of testimony, instead stating such dates would best be determined after the JP is filed. Furthermore, since they now anticipate that the JP will

¹ The reporting parties, a subset of the parties participating in the settlement discussions, are listed in footnote 1 of the Response.

outline a Project containing additional subterranean portions and a different converter station location, they recommend the scheduling of additional public statement hearings in the following counties: Greene, Rockland, Washington, and Schenectady. If a location other than Yonkers is proposed for the converter station, they also suggest an additional public statement hearing in that community. Finally, the reporting parties note that they may propose additional recommendations in this regard, depending on the progress they make by July 15.

In its June 24, 2011 response, Central Hudson Gas & Electric Corporation (Central Hudson) takes exception to the dates proposed by the reporting parties for the filing of initial and reply statements. It argues that initial statements should be filed one week later, on September 9, 2011, and contends that a date for filing reply statements should be determined at a procedural conference held on or about September 16 or 19.² At the proposed procedural conference, Central Hudson further recommends that parties also be directed to discuss whether evidentiary hearings are necessary, on what issues, and when. Central Hudson contends that any schedule must be fixed based on a knowledge of the nature of the JP and the initial statements; it adds that additional time is necessary to complete initial statements as the JP presumably will be complex and voluminous and the current scheduling period has the Labor Day weekend in its midst. Central Hudson also states that, as a result of several river crossings, the Project will create interferences that did not previously exist, that are of concern to it.

² These dates roughly equate to the week to ten days after the initial statement filing date, as proposed by Central Hudson in its response.

On June 27, 2011, the Applicants opposed Central Hudson's response. They claim that Central Hudson, as one of the settling parties, has access to the terms of the settlement document and can begin preparing its comments on any JP well in advance of the filing of such a document, thus eliminating the need for an extension of the reporting parties' proposed initial and reply statement filing dates. The Applicants further contend that Central Hudson's proposal to have a procedural conference prior to the filing of reply statements is unworkable because, until such statements are filed, it will be difficult, if not impossible, for us to determine the full scope of issues to be resolved by hearing.

Discussion

We are inclined to adopt the reporting parties' scheduling proposal. First, Central Hudson has been listed among the settling parties for quite some time now. As a result, it has had access to and knowledge of the terms that will likely be included in any JP that is ultimately filed in this proceeding. It also has the opportunity to use the remaining settlement discussion period to endeavor to address any issues (interferences, abutment, etc.) that cause it concern. Second, with the exception of Central Hudson, the schedule appears to reflect a consensus proposal. Third, as the reporting parties acknowledge, the currently-proposed schedule is incomplete.

As we have indicated in at least two previous rulings, we intend to conduct evidentiary hearings.³ In addition, a more complete schedule in this proceeding should also include, at a minimum, dates for: the submission of testimony, any proposed site visits, and proposed public statement hearings (including additional detail regarding the proposed locations).⁴ Most of these dates will likely be established after the filing of reply statements, when we should have a better indication of the scope of issues to be addressed at the evidentiary hearings. However, we encourage the parties to provide any recommended dates they may have for these events in the July 15, 2011 status report.

In an effort to address any concerns about the sufficiency of the time available to the parties to prepare initial or reply statements, we are hereby shortening the discovery response time to six days for any discovery request that (1) concerns proposal or issues related to the JP and (2) is served from one to five business days after the JP is filed.

Finally, if any portion of the route proposed in the JP lies in a municipality that has not yet been served with a copy of the application, the Applicants must provide that

³ The evidentiary hearing will be separately noticed. To assist us in determining the scope and duration of the evidentiary hearing, parties are hereby reminded that any party who files an initial opposing statement must set forth its reasons and bases for opposing the JP and issuance of a certificate and must state whether each such basis is asserted as a material issue of fact for which the party intends to provide expert testimony or other evidence at the hearing. In addition, in the reply statements supporting the JP and the issuance of a certificate, the Applicants and Staff must, and any other party may, indicate whether that party intends to offer witnesses or other evidence at the hearing to support the JP and the issuance of a certificate.

⁴ A date should be recommended for submission of an amended 401 Water Quality Certification request if it is not addressed in the JP.

municipality with a copy of the application and must certify that such service has been effectuated. The certification should be filed by the Applicants on, or shortly after, the JP filing date.

To reiterate, we approve the following procedural deadlines:

<u>Event</u>	<u>Deadline</u>
Status Report	July 15, 2011
Filing of Joint Proposal:	August 12, 2011
Filing of initial statements supporting or opposing JP ⁵	September 2, 2011
Filing of reply statements supporting or opposing JP ⁶	September 16, 2011

(SIGNED)

MICHELLE L. PHILLIPS

(SIGNED)

KEVIN J. CASUTTO

⁵ See note 3 *supra*.

⁶ See note 3 *supra*.