

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on February 26, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair  
Patricia L. Acampora  
Gregg C. Sayre

COMMISSIONER EXCUSED:

Diane X. Burman

CASE 13-T-0515 - Petitions of New York Power Authority  
Relating to its Certificate of Environmental  
Compatibility and Public Need for the Marcy  
South 345 kV Transmission Facilities -  
Formerly Case 70126.

ORDER APPROVING PHASE ONE ENVIRONMENTAL MANAGEMENT AND  
CONSTRUCTION PLAN

(Issued and Effective March 2, 2015)

BY THE COMMISSION:

INTRODUCTION

We recently granted an amendment to the Certificate of Environmental Compatibility and Public Need (the Certificate) to the New York Power Authority (NYPA) for the construction of the Series Capacitors Banks (SC Banks)<sup>1</sup>. Pursuant to Ordering Clauses 2 and 3 of the Certificate Amendment Order, NYPA prepared, filed, served and published notice of availability of the EM&CP on January 8 and 15, 2015 in The Daily Star in Oneonta, New York. The comment period expired on February 17, 2015.

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<sup>1</sup> Case 13-T-0515, New York Power Authority, Order Granting Amendment of the Certificate of Environmental Compatibility and Public Need (issued October 27, 2014).

THE PROPOSED EM&CP

Construction of the SC Banks will require clearing of approximately 2.5 acres of upland deciduous forest habitat along the edge of the existing electric transmission rights-of-way (ROW). The forest is mainly submature trees, approximately eight inches in diameter at breast height (dbh), or less. In the northeast woodlot, most of the trees are red maple and in poor condition. Most of the tree clearing would occur in this area. In the woodlot on the northwest side, there is a mix of larger trees, including sugar maple and black cherry. A limited number of ash trees are found within the woodlots to be cleared for the SC Banks. The ash trees will be subject to quarantine requirements to restrict spread of emerald ash borer insects. There are no wetlands or watercourses within the proposed foot print of the SC Banks.

Cultural resource field surveys have been completed for the site and did not detect above ground or buried artifacts that would cause the site to be eligible for listing on the New York State or Federal register of significant sites. Wood chips and merchantable logs will be stored on site until the construction of the SC Banks begins in late summer. The site is within the emerald ash borer quarantine area and ash trees will be separated and processed as required by the quarantine. Existing access roads will be used to enter the site for the tree clearing phase. No soil excavation will occur during Phase One; however, if soil is disturbed, it will be stabilized by temporary seeding and/or mulching. Work will occur Monday through Saturday from 7:00 a.m. to 6:00 p.m. Environmental protection procedures will be those in common use by NYPA or as described in the Department of Public Service's Environmental Management and Construction Standards and

Practices. A qualified environmental monitor will oversee the project.

The Phase Two EM&CP will cover disposal or use of the logs and wood chips, as well as full site development, including site grading, drainage facilities, SC Banks, switches, breakers, substation control building and permanent access road construction and utility transmission structures.

The Phase One EM&CP includes a project schedule and tree clearing procedure to be completed prior to April 1, 2015. Tree removal is necessary to eliminate summer tree roosting habitat of the Northern Long-Eared Bat (*Myotis septentrionalis* or NLEB). The United States Fish and Wildlife Service may add the NLEB to the list of federally endangered species on April 2, 2015. The NLEB population decline has been caused by the white-nose syndrome which infects bats in winter hibernacula leading to the deaths of a high percentage of the bats. The NLEB move out of winter hibernation between April 1 and May 1 and maternal bats will roost in trees as small as three (3) inches dbh. The NLEB will use any tree that has crevices or openings. Loss of tree roosting habitat at this site will not cause damage to the species. Early removal of potential roost trees when bats are in hibernation or have not moved to summer roosting habitats prevents accidental death of maternal bats when they are potentially roosting in trees with their young.

#### PUBLIC COMMENTS

The New York City Department of Environmental Protection (NYCDEP) commented on the project since it is occurring in the drainage basin of the Cannonsville Reservoir, part of New York City's Water Supply. NYCDEP urged that land disturbance be limited and that erosion and stormwater runoff from the site be minimized.

DISCUSSION AND CONCLUSION

To address NYCDEP's comments, we will require all stockpiled wood chips, logs or other materials to be placed in upland areas. We will also require NYPA to assign an environmental monitor to the tree clearing operation to address any occurrences of erosion or stormwater runoff.

We will approve the proposed EM&CP, finding that it complies with the Certificate Amendment Order. The January 16, 2015 Phase One EM&CP describes the work necessary to cut trees prior to April 1, 2015, and explains why such work is necessary.

The Commission orders:

1. The Phase One EM&CP filed by the New York Power Authority (NYPA) on January 16, 2015, is approved.
2. All stockpiled wood chips, logs or other materials shall be placed in upland areas.
3. NYPA shall assign an environmental monitor to address any occurrences of erosion or stormwater runoff during Phase One of project construction. NYPA shall submit contact information for the environmental monitor, and a project schedule for clearing five days prior to the start of clearing to DPS Staff.
4. After each phase of the EM&CP has been approved:
  - a. NYPA shall report any proposed changes to its approved EM&CP to Staff. Staff will refer any proposed changes that will not result in any increase in adverse environmental impacts or are not directly related to contested issues decided during the proceeding to the Chief of the Environmental Certification and Compliance Section of the Office of Utility Rates and Services for approval. Staff will refer all other proposed changes to the Commission for approval;

b. Upon being advised that Staff will refer a proposed change to the Commission, NYPA shall notify all parties to the proceeding, and any property owners whose property is affected by the proposed change. The notice shall: (i) describe the original conditions and the requested change; (ii) state that documents supporting the request are available for inspection at specified locations; and (iii) state that persons may comment by writing or calling (followed by written confirmation) to the Commission within twenty-one (21) days of the notification date. Any delay in receipt of written confirmation will not delay the Commission action on the proposed change; and

c. NYPA shall not execute any proposed change until it has received oral or written approval, except in emergency situation threatening personal injury, property, or severe adverse environmental impact. Any oral approval from Staff will be followed by written approval from the Chief of Environmental Certification and Compliance or the Commission.

5. NYPA shall provide a schedule for the submittal of the Phase Two EM&CP by May 1, 2015.

6. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS  
Secretary