STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on September 19, 2013

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 12-T-0502 - Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades.

ORDER ADOPTING ADDITIONAL PROCEDURES AND RULE CHANGES FOR REVIEW OF MULTIPLE PROJECTS UNDER ARTICLE VII OF THE PUBLIC SERVICE LAW

(Issued and Effective September 19, 2013)

BY THE COMMISSION:

## BACKGROUND

The Commission instituted this proceeding in November 2012 in order to examine possible alternating current (AC) transmission solutions to the problem of persistent congestion on the UPNY/SENY and Central East transmission interfaces.[1] As we identified in undertaking this effort, upgrading this section of the State's transmission system has the potential to bring a number of benefits to New York ratepayers. These include the near-term benefits of enhanced system reliability, flexibility, and efficiency, reduced environmental and health impacts through

[1] Case 12-T-0502, Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades, Order Instituting Proceeding (issued November 30, 2012)(November Order).

reduced downstate emissions, and increased diversity in supply; as well as long-term benefits in terms of job growth, development of efficient new generating resources at lower cost in upstate areas, and mitigation of reliability problems that may arise with expected generator retirements.

In April 2013, anticipating that several responsive proposals might be filed, we established procedures for a comparative evaluation of proposed AC project applications under Article VII of the Public Service Law (PSL).[2] We also adopted modifications to the regulations contained in 16 NYCRR Parts 85, 86, and 88 necessary to assist us in streamlining the certification process,[3] and outlined additional steps to be taken over the next several months to pursue the objectives set forth in the November Order. We established a two-step review process involving the submission of initial application materials, scoping documents,[4] and proposed schedules by October 1, 2013 (called "Part A" application materials), and submission of the remaining Article VII application materials (hereafter "Part B")

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[2] Case 12-T-0502, Proceeding on Motion of the Commission to Examine Alternating Current Transmission Upgrades, Order Establishing Procedures for Joint Review under Article VII of the Public Service Law and Approving Rule Changes (issued April 22, 2013)(the April Order). At the time, we also reiterated our intent to maintain our focus on AC transmission solutions. While other types of facilities may contribute to relieving congestion, they do not share all the characteristics of AC facilities and do not provide the same benefits.

[3] April Order at 13. The approved rule changes streamline the certification process by (1) avoiding the need to seek case-specific routine waivers, and (2) clarifying certain information requirements in the existing regulations.

[4] Scoping contemplates an applicant working with Staff, other agencies, affected communities and other interested parties to define the final scope of the study work that the applicant will undertake in support of its application.

on a schedule to be set by an Administrative Law Judge (ALJ).[5] We also advised that other rule changes might be necessary to facilitate the comparative evaluation that we envision and directed Staff to prepare a proposal identifying such changes. Accordingly, by Notice issued May 29, 2013, Staff proposed rules to be applied in the review of the applications submitted in response to this proceeding.

The primary goals of the proposed rules are to ensure that appropriate procedures are in place to enable us to make a comparative evaluation of multiple projects on a common record, and to ensure that any such application contains pertinent information so we may decide, in an expeditious manner, whether to approve a particular project(s). The proposed rule changes called for: designation of a presiding officer, non-Article VII project filing requirements, a preliminary scoping process (e.g., methodologies for studies, coordination of studies), the development of a common record for specified issues, additional application requirements, and initial public outreach.

The May 29 Notice specified a comment deadline of July 29, 2013, but encouraged early submission. Notice of Staff's proposal was also published in the State Register on June 12, 2013, in conformance with State Administrative Procedure Act Section 202(1). Comments regarding the proposal were received from five entities within the comment period, which expired on July 29, 2013.[6] Multiple Intervenors (MI) filed a petition seeking a stay of all activities in this proceeding.

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[5] April Order at 8-9.

[6] New York Transmission Company (Transco), NextEra Energy Transmission, LLC (NextEra), North America Transmission, LLC (North America), Boundless Energy NE, LLC (Boundless) and the New York State Department of Environmental Conservation (NYSDEC). Transco submitted an unsolicited response to comments on August 28, 2013.

COMMENTS AND RESPONSES

NextEra urged that we rely on the Part A application materials to pre-select those projects that will proceed to the Article VII siting analysis and recommend those selected projects to the New York Independent System Operator, Inc. (NYISO) as Public Policy Requirement projects, with only one being recommended if proposed projects overlap.[7] Similarly, North America maintained that we should conduct a comparative evaluation of proposed projects as soon as practical after the submittal of the Part A application materials. These parties opined that the early comparative evaluation approach they propose is consistent with the law, conforms to appropriate system planning, increases the possibility for real competition, and is significantly more efficient than a late comparative evaluation approach. Boundless likewise contends that an early determination of whether the proposed projects meet a need identified by the Commission would aid in expeditious resolution of the proceeding and materially support applicants' efforts to secure financial support.

These parties further argued that, should the Commission decline to adopt their recommendation to provide for an early comparative evaluation and selection, we should at least level the playing field between incumbent and non-incumbent applicants by providing for recovery of their project development costs. NextEra asked us to "authorize cost recovery

[7] In order to make this selection and recommendation, NextEra claimed that the following matters, besides scoping, issue coordination and scheduling regarding the filing of Part B application materials, should be addressed in the first phase: a. The findings required by PSL §126(1)(a) (on the basis of need) and (g) (on the public interest, convenience and necessity); b. findings as to cost and risk to ratepayers; and c. findings as to best fit to the Commission's and Energy Highway Blueprint objectives.

for planning, Article VII applications, and other development activities, subject to a prudence standard and a recovery cap of $5 million per project, recovered via contract with an incumbent transmission provider, should the developer's project ultimately not be selected." NextEra pointed out that we allowed limited development cost recovery for the Transmission Owner Transmission Solutions (TOTS) projects in Case 12-E-0503.

Noting that both the April Order and the procedural rules proposed in the May Notice refer to consideration of the proposals on a common record, Boundless urged us to clarify that the four key issues noted in the procedural rules proposed by Staff,[8] as well as the basis of the need for proposed facilities and which proposed facilities meet the policy requirements reflected in the Commission's objectives for this proceeding should be not only "addressed" but also "determined" in the common record phase of the proceeding.

Boundless further suggested that it would be important for key component segments of projects, and not just overall projects, to be addressed on a common record in detail. Otherwise, Boundless asserted, important distinctions in cost, design and benefits to the system between comparable component segments proposed by different project sponsors may be lost. At the same time, Boundless argued, the expeditious development of the common record would be threatened if non-material subprojects were included in the common record hearings. Therefore, it argued that the ALJ should be directed to identify early in the case which component segments will be addressed during the common record hearings and to make an early

[8] Minimum adverse environmental impact, public interest, cost and risk to ratepayers, and best fit to the Commission's objectives.

determination of which segments meet the Commission's focus on the congested transmission corridor.

Transco asserted that some of the information proposed for inclusion in any filings regarding non-Article VII projects due by October 1, 2013 is overly burdensome. For example, rather than requiring the filing of copies of all federal, state and local applications related to the project, Transco argued that the rule should permit applicants to provide a citation or link to such applications. In addition, Transco argued that, given that a lead agency's determination of significance and a completed Environmental Assessment Form (EAF) may not be available by October 1, the rule should only require a demonstration that the applicant has provided a copy of the Part 1 EAF to the proposed lead agency and that the siting process is underway based on a proposed commercial operation date.

NYSDEC contended that a significant issue in this proceeding concerns site access to the transmission rights-of-way (ROW) owned or controlled by incumbent utilities. NYSDEC is particularly concerned that lack of site access by some project developers will compromise preparation of application materials and assessment of potentially significant environmental and natural resource issues. According to NYSDEC, equal access to ROW and other site information will ensure that the best data is available for the Commission's decision making. Accordingly, NYSDEC urged us to exercise our authority under the PSL to require or arrange access for non-incumbent utilities to utility ROW and other related property as necessary and appropriate. NYSDEC also explained that ensuring coordination of studies among project sponsors in sensitive resource areas so as not to disturb or put undue stress on natural resources and threatened or endangered animal or plant species would be highly desirable. NextEra likewise maintained that the regulations should be

amended to require that electric corporations that control existing ROW allow the proponents of other projects filing Part A application materials to have access to their ROW for purposes of conducting studies to be included in the Part B applications. In particular, NextEra asserted that the Commission has the requisite statutory authority to require the transmission owners to file plans as to how they will allow shared access to their property.

NextEra commented that 16 NYCRR §86.8 should be amended to classify transmission facilities described in Part A application materials as public utility facilities relative to the question of conformity to local substantive legal requirements that govern permissible uses and the location of such facilities. According to NextEra, this designation is important because many local ordinances treat "public utility" facilities (or similar classification) differently from non-public utility facilities for purposes of zoning use authorizations.

North America requested clarification of the proposed rule as to when landowners must be notified of proposed projects and which landowners are required to receive notice. Regarding procedures and scoping, Transco requested clarification that:

(1) The presiding officer who is tasked with establishing methods and types of studies to submit, as well as identifying any potential consolidation of issues and coordination of studies and data collection, will also be establishing a comment period during which applicants will be able to comment on the identification and coordination of relevant studies and any proposed consolidation of issues;

(2) Applicants will be given sufficient time to respond to any comments submitted by parties and the public on the draft scopes and schedules;

(3) the requirements relating to information to be included in the application with respect to property/ownership rights and the comparison of alternative locations are

not due in the October 1 filing, but are expected to be included in Part B of the application;

(4) scoping documents must be put on applicants' websites when available, with only draft scoping documents to be made available by October 1;

(5) Staff will be setting up a schedule of hearings or public information sessions, which applicants would put on their websites; and

(6) electronic filing is sufficient to meet the October 1 deadline and service of hard copy documents is not mandatory, but they will be required to be made available upon request.

NYSDEC took the opportunity afforded by the May 29, 2013 Notice to express its views on certain provisions adopted in the April Order. It stated that the rules concerning the information that is required in Part A and Part B application materials need clarification because the attempt to distinguish such information by color coding in a document posted to our Document and Matter Management System on May 28, 2013 was not entirely successful.[9] Regarding 16 NYCRR §85-2.8(d), NYSDEC requested that the requirement in paragraph (5) be revised to require "Project environmental impacts, including Air Pollution/GHG [green house gas] emissions from project construction and operation", and that a separate category be provided for "Environmental Benefits, including regional Air Pollution and GHG emission reductions."

In comments on 16 NYCRR §86.3, NYSDEC sought clarification regarding language requiring mapping of the proposed facilities and associating a variety of environmental resource locations to their "listing on the state or national register of historic places." NYSDEC also recommended that the rules in 16 NYCRR §86.4, regarding consideration of

[9] The document was posted in response to questions posed at the May 14, 2013 technical conference held by Staff.

alternatives, specifically require each applicant to respond to proposals of other applicants that compete with its proposal and purport to satisfy similar goals and objectives. Lastly, NYSDEC recommended that certain additional showings be made in Exhibit 4 regarding efforts to minimize GHG emissions related to project construction, operation and maintenance, and to address specific potential effects of climate change (including sea level change, underground facilities design considerations, severe weather conditions, storm events and floodplain location design criteria).

Transco objected to providing any mechanism for the recovery of development costs that would impose the burden of projects proposed by independent developers on utilities or their customers. It noted that, in authorizing the utilities to recover certain development costs for the TOTS projects in Case 12-E-0503, the Commission found it was reasonable to institute different cost recovery provisions for utilities and developers (because utilities have Provider of Last Resort obligations under the Public Service Law), and that it was neither necessary nor appropriate to provide identical cost recovery provisions for each.[10]

Transco further asserted that the incumbent transmission owners have provided and will continue to provide access to existing ROW to developers in a uniform and consistent manner. It argued that the utilities do so by means of policies and procedures designed, first and foremost, to protect and safeguard critical infrastructure as well as those individuals accessing utility property. Thus, Transco objected to any intervention by the Commission in this matter.

[10] Case 12-E-0503, Proceeding on Motion of the Commission to Review Generation Retirement Contingency Plans, Order Upon Review of Plan to Issue Request for Proposals (issued March 15, 2013) at 18.

MI, in its petition, sought a stay of the proceeding on various grounds. MI argued that (1) the Commission lacks authority to engage in planning and funding AC transmission solutions; (2) this proceeding interferes with the NYISO's planning activities; (3) the AC transmission initiative will impose unjust and unreasonable rates on retail customers; and (4) the Commission has no basis for focusing on AC projects.

## DISCUSSION

At the outset, we deny (as a matter committed to our discretion) MI's request for a stay in this proceeding. Since the commencement of this proceeding in November 2012, we have considered and addressed these issues. Given our findings as to the persistence of congestion on the interfaces of concern, we see no reason to delay the assessment of the solutions that may be offered in this case.

On the issue of taking an early comparative evaluation approach (on the basis of Part A application materials), as advocated by some commentators, a number of benefits could attend this course of action. Moreover, we agree with them that the Commission possesses the necessary statutory authority to engage in some early screening.[11] Indeed, we might well be able to go so far as to make preliminary findings on some of the issues we are required to evaluate under PSL Article VII, such as the need for specified facilities and their conformity to a long-range plan for expansion of the electric power grid. Yet it is highly doubtful that, on the basis of only Part A application materials, we could appropriately make even preliminary determinations as to whether a given facility would serve the public interest, convenience and necessity, or which

[11] See, PSL §§4(1), 5(2), and 66(1), (2) and (5). See also, 16 NYCRR §85-2.5.

facility would best fit the Energy Highway objectives. Finally, given that we do not know how well-developed the proposed projects are, and thus cannot determine what level of risk ratepayers would assume, it is not clear what would be gained by comparing the preliminary project cost estimates.[12]

That said, however, given the efficiencies that might well be gained by screening out proposed projects that do not meet, or only minimally meet, the objectives of this proceeding, we will give the ALJ significant flexibility in presiding over the proceedings (including the authority to hold hearings pursuant to PSL §66(5), to consider requests for late submission of information pursuant to 16 NYCRR §85-2.3(c), and to decide (upon the motion of any party or sua sponte) to sever issues for separate decision, pursuant to 16 NYCRR §85-2.13).

We direct the ALJ to consider, promptly after the initial applications are filed, whether an early screening would help streamline the process and serve the goal of obtaining congestion relief at the least cost to ratepayers, and in the 2014-2018 timeframe set out in the Energy Highway Blueprint. Such a screening may be most appropriate if there are many Part A filings, raising the prospect of significant stress on Staff resources. We believe it may be possible to assess certain factors in advance of completion of the Article VII applications and thereby streamline the overall effort required to complete this undertaking. In our April Order, we approved rules for the Article VII process that include application requirements

[12] We do not mean by this statement to discourage applicants who desire to do so from providing preliminary cost estimates pursuant to 16 NYCRR §85-2.8(f).

addressing "the compatibility of the proposed facility with goals … identified in the Blueprint."[13]

We believe that an early screening on focused criteria would support the Energy Highway goals. In particular, projects that do not provide the minimum 1000 MW of increased transfer capability that we have targeted, or that have not yet commenced the NYISO study process, or whose sponsors cannot demonstrate substantial experience in the construction and operation of AC transmission lines, need not be considered as candidates for cost recovery in the comparative proceeding.[14]

A comparison of the proposals' costs to ratepayers may also provide a basis for eliminating some projects from contention. If the ALJ finds that taking this step would streamline the process and reduce impacts on Staff resources, he or she may invite bids from applicants structured in accordance with the results of our effort to establish cost recovery rules and risk-sharing principles for this proceeding.[15] To accomplish this, we note that developers must have an opportunity to marshal a level of data that is appropriate in light of the risk model we ultimately adopt. This and other factors may be used by the ALJ to conduct further screening.

The ALJ should make the results of the screening assessment(s) available to all of the parties and to the public and should take them into account when establishing further proceedings and schedules. We caution that the purpose of any

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[13] In the same order, we also initiated a process to establish mechanisms for allocating risk between developers and ratepayers in the context of cost recovery and allocation. We are currently considering comments received on a Staff straw proposal on these issues, and we expect to address this subject in the near future.

[14] "Projects" may have different components that together provide the necessary relief, if they are filed by joint sponsors.

[15] See footnote 13.

screening must be to streamline the overall process. The ALJ should not attempt to quantify criteria that cannot be assessed in a reasonable time or that require extensive factual development.[16] We expect the ALJ to conduct the proceedings as efficiently and expeditiously as possible, and to exercise the flexibility we have granted with due attention to the timeframes suggested in the Blueprint. We will rely on the ALJ to issue appropriate rulings (including those regarding whether an application should be dismissed, pursuant to 16 NYCRR §85-2.15, if it appears that the statutory requirements for a Certificate cannot be met).

In view of the foregoing discussion, we do not find it necessary to decide now how (if at all) to level the playing field between incumbent and non-incumbent electric corporations. An independent developer has no obligation to incur development costs but may see a future opportunity as worth the near-term risk. The screening we have authorized here will provide applicants with some indication of their likelihood of success. In any event, we decline to address here the question of how the recovery of development costs would be afforded to non-incumbent utilities.

To clarify the flexibility given to the ALJ to fashion appropriate procedures, based on input from the parties, we take this opportunity to modify slightly the rule proposed in the May 29 Notice. In the proposed rule, Staff wrote, "The presiding officer shall organize the parties' presentations to allow for application specific and comparative findings. The findings required by Section 126(1)(a), (b), (d), and (f) of the Public Service Law (PSL) shall be made on an individual record for each

[16] We anticipate that the ALJ will be able to call on the expertise of the NYISO in assessing the degree of additional transfer capability offered by the projects described in Part A application materials submitted by October 1, 2013.

proposed Article VII transmission line." The proposed rule goes on to specify the findings that would be made on a comparative basis. We agree with the division of findings that should be made for each proposed line and those that will be made on a comparative basis. We clarify, however, that the findings to be made for each proposed project need not necessarily be made "on an individual record." Rather, the ALJ and the parties should feel free to develop a common record for findings on individual projects where it makes sense to do so; for example, in determining the environmental impacts of projects that share the same proposed route.

As for the information that proponents of non-Article VII projects must file by October 1, we agree with Transco that such applications may include electronic links to, rather than copies of, all federal, state, and local applications associated with such proposed projects. We also note that the proposed rule was not intended to require documents that are unavailable as of the October 1 deadline. At a minimum, however, a copy of the Part 1 EAF should be included, together with a statement as to the status of the review under the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law).

NYSDEC is correct that, in order for the comparative project evaluation we are embarking on to be successful, non-incumbent electric corporations must have appropriate access to the transmission ROW of incumbent utilities. We also agree with NYSDEC that ensuring coordination of project-related studies among utility personnel and consultants will appropriately minimize any adverse environmental impact related to the conduct of necessary studies. In accordance with PSL §§ 4(1), 5(2) and 66(1), we will therefore require electric corporations that control existing ROW to allow parties filing Part A application

materials to have reasonable access to those portions of the electric corporation ROW that are the subject of those applications. The electric corporations should give applicants access for purposes of conducting studies needed to complete their applications and for purposes of preparing cost estimates, subject only to such reasonable requirements as the utilities routinely specify when they provide such access to contractors and other persons who need to gain access to their ROW.[17] To aid the ALJ in resolving disputes as to ROW access or study coordination, we will require those electric corporations controlling transmission ROW to file, by October 1, 2013 (or such later date as may be specified by an ALJ) their currently effective policies and procedures for ROW access.[18]

We cannot grant NextEra's request that we amend 16 NYCRR §86.8 to classify transmission facilities described in Part A application materials as public utility facilities for purposes of our decision as to whether such facilities conform to applicable local substantive legal requirements. We confirm that these facilities, once constructed, will be electric plant owned by electric corporations under the Public Service Law, but we will not here attempt to interpret local ordinances. Moreover, the observation of the New York State Board on Electric Generation Siting and the Environment with respect to PSL Article 10 that "the statute requires that local governments be given an opportunity to defend their specific laws before the

[17] Obviously, if a project is eliminated as part of an early screening process, nothing in this order would obligate an electric corporation to provide access to the developer of that project after that point.

[18] We emphasize that arrangements for access to the ROW should be made before the October 1 filing date; the filing of the policies and procedures may be helpful in resolving any disputes that may arise.

matter can be considered ..."[19] is equally applicable to PSL Article VII.

We turn next to the requested clarifications of the rules proposed on May 29, 2013. Regarding the clarification sought by North America and Transco, the proposed rule required notification of owners of any land an applicant believes to be necessary for construction, operation and maintenance of its proposed project before the Secretary may determine that its application complies with applicable filing requirements, which may only occur following the filing of the Part B application materials. Thus, these notifications must be made before the deadline set by the ALJ for Part B.

Concerning the other clarifications requested by Transco, the ALJ will undoubtedly establish appropriate methods for receiving the input of parties on the matters left to the care of the Office of Hearings and Alternative Dispute Resolution. It is obvious moreover, that final scoping documents (and other documents not available by a particular deadline) need not be put on an applicant's website until they are available. As for the method of filing of the Part A application materials, we will require electronic filing by October 1, with seven hard copies to be provided to Staff as soon as possible thereafter (but not later than October 7), with

[19] Case 12-F-0036, In the Matter of the Rules and Regulations of the Board on Electric generation Siting and the Environment, Contained in 16 NYCRR Chapter X, Certification of Major Electric Generating Facilities, Memorandum and Resolution Adopting Article 10 Regulations (issued July 17, 2012) at 78.

hard copies being provided to other parties to the proceeding in which the Part A application materials were filed upon request.[20]

We take this opportunity (at NYSDEC's suggestion) to enhance the rules adopted in our April Order. We note that the color coding in the guidance document was intended to highlight the Part A filing requirements--those topics that are to be initially addressed in the Part A scoping schedule, and fully addressed with supporting analyses in Part B application filings. The rule specifying that, in complying with 16 NYCRR §85-2.8, an applicant must provide the development schedule for the proposed facility (including an estimate of the time needed to prepare and submit applications for any regulatory approvals necessary to begin construction) must be complied with in Part A application materials. Other requirements referencing §85-2.8 need not be complied with until Part B application materials are filed, though applicants would do well to discuss in their Part A application filings the compatibility of their proposed facilities with the goals and benefits to New York's ratepayers identified in the Energy Highway Blueprint, pursuant to 16 NYCRR §85-2.8(f).

While the rules adopted in the April Order did not acknowledge that potential increases in impacts may occur from certain aspects of project construction or system operation, we will adopt NYSDEC's suggestion that the rule requiring a discussion of reduced environmental impact, including GHG emission reduction, be revised to require "Project environmental impacts, including Air Pollution/GHG emissions from project construction and operation", and that a separate category be

[20] As part of electronic filing of Part A materials, applicants shall submit proposed facility and right-of-way locational maps, and file location information in Geographic Information System Esri shapefile format using coordinate system NAD 1983 UTM Zone 18N.

provided for "Environmental Benefits, including regional Air Pollution and GHG emission reductions."

To clarify requirements concerning 16 NYCRR §86.3, we will revise the text as follows: "The applicant need not meet this requirement, so long as the maps or charts submitted as Exhibit 2 show any geologic, historic resource listed on the state or national register of historic places, or scenic area, park, or wilderness within three miles on either side of the proposed centerline, for an overhead facility; or within one mile of the proposed centerline for an underground or sub-aquatic segment." As for NYSDEC's comment that the requirement in 16 NYCRR §86.4, regarding consideration of alternatives, should specify that applicants must respond to competing proposals of other applicants that purport to satisfy similar goals and objectives, we expect that such would be the case in the normal course of evidentiary hearings and pleadings; we will not, however, require that all applicants address all competing proposals as part of their applications.

Finally, NYSDEC is correct that showings concerning design and mitigation measures should be made in Exhibit 4 of applications. Accordingly, we adopt the following requirements as additions to the required discussion in 16 NYCRR §86.5:

(1) What efforts, if any, have been made to minimize the emissions of greenhouse gases during the construction, operation and maintenance of the proposed facility;

(2) If any portion of the proposed facility is to be constructed underground, the applicant shall state what, if any, plans have been made to ensure system resilience to rising water tables, including potential salt water intrusion in coastal areas;

(3) If any portion of the proposed facility is to be constructed in the 0.2 (1 in 500 year storm) percent floodplain, the applicant shall state what, if any, plans have been made to ensure system

resilience to flooding, including enhanced storm surge in coastal areas;

(4) What, if any, plans have been formulated to ensure that the proposed facility is resilient to severe snow and/or icestorms; and

(5) What, if any, plans have been formulated to ensure that the proposed facility is resilient to periods of extreme heat.

The enhancements to the substantive rules that applicants must comply with in providing Part A application materials are included in Appendix A hereto.

## CONCLUSION

The comments submitted in this proceeding have greatly assisted us in formulating procedural and substantive rules for use in evaluating the several proposed facilities expected to be described in Part A application materials by October 1, 2013. We therefore adopt the provisions discussed herein for a comparative evaluation of potential solutions to the transmission congestion we identified in the November Order.

The Commission orders:

1. The petition for a stay of all activities in this proceeding filed by Multiple Intervenors on September 4, 2013 is denied.

2. AC transmission developers intending to participate in the proceedings initiated on or after October 1, 2013 shall comply with the procedural and substantive rules described in the body of this order and in Appendix A hereto.

3. Electric corporations who participate in the proceedings contemplated here shall provide access to their owned or controlled ROW as required by this order.

4. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary

**APPENDIX A**

**Case 12-T-0502**

**Article VII Part A Template**

1. Article VII application must include:
    a. Payment for Intervenor Fund (85-2.4):
    b. Application content (85-2.8(a), (b), (d) and (f)):
        i. Proposed Facility (85-2.8)
            1. a description of the proposed facility,
            2. location of proposed facility or right-of-way,
            3. explanation of need for the proposed facility, and
        ii. such other information as the applicant deems necessary or desirable.
    c. Notice of Application, newspaper publication and proof of service (85-2.10)
    d. General requirements for each exhibit (86.1)
    e. Exhibit 1: General Information Regarding Application (86.2): Two additional requirements:
        i. applicant must include an e-mail address with applicant's contact information.
        ii. corporate applicant must identify whether it is incorporated under the Transportation Corporation Law.
    f. Exhibit 2: Location of Facilities (86.3)(a)(1): Detailed maps, drawings and explanations showing the ROW,[1] including GIS shapefiles of facility locations and:
        i. NYSDOT 1:24,000 topographic edition showing:
            1. proposed ROW (indicating control points) covering an area of at least 5 miles on either side of the proposed centerline.

[1] Aerial photo requirement (86.3(b)) shifts to Part B as long as applicant uses 2010 or newer USGS topo for 1:24,000 mapping required by 86.3(a)(1).

2. geologic, historic resources listed on the state or national register of historic places, or scenic area, park, or wilderness within three miles on either side of the proposed centerline for an overhead facility; or within one mile of the proposed centerline for an underground or sub-aquatic segment.

ii. (86.3)(a)(2) – NYSDOT 1:250,000 scale or other recent edition topographic maps showing the relationship of the proposed facility to the applicant's overall system, with respect to:

1. the location, length and capacity of the proposed facility, and of any existing appurtenances related to the proposed facility.
2. the location and function of any structure to be built on, or adjacent to, the right-of-way (including switchyards; substations; series compensation station facilities; microwave towers or other major system communications facilities; etc.)
3. the location and designation of each point of connection between an existing and proposed facility, and
4. nearby, crossing or connecting rights-of-way or facilities of other utilities.

g. Exhibit 5: Design Drawings (86.6(a) and (b)): design, profile and architectural drawings and descriptions of proposed facility, including:
   i. the length, width and height of any structure, and
   ii. the material of construction, color and finish

h. Exhibit 7: Local Ordinances (86.8(4)):[2] Recent edition 1:24,000 topos with overlays showing:
   i. zoning; and

[2] Applicants are encouraged to show zoning districts as overlays on 1:24,000 scale topo maps, but may use other appropriate mapping that clearly relates the proposed facilities locations to zoning district maps.

ii. flood zones (include 100 year (1%) and 500 year (0.2%) flood hazard areas, and floodway locations, as available)

i. Exhibit E-1: Description of Proposed Transmission Line (88.1(a)-(d)): detailed description of proposed line, including:

i. design voltage and voltage of initial operation

ii. type, size, number and materials of conductors

iii. insulator design

iv. length of the transmission line

j. Exhibit E-4: Engineering Justification (88.4)and new section of 85-2.8 addressing compatibility of the facility with the goals and benefits to New York's ratepayers identified in the Blueprint:

i. summary of engineering justification for proposed line, showing its relation to applicant's existing facilities and the interconnected network, with full justification to be submitted in Part B;

ii. summary of anticipated benefits with respect to reliability and economy to applicant and interconnected network. Specific benefits to be submitted in Part B;

iii. proposed completion date, and impact on applicant's systems and of others' of failure to complete on such date;

iv. appropriate system studies (see SIS notice requirement below);

v. a general demonstration of how, and to what extent, the proposed transmission project meets the congestion relief, system reliability, reduction in regional air pollution and greenhouse gas emissions and the other benefits and objectives identified by the Commission in Case 12-T-0502; details of this demonstration shall be provided with Part B filing, along with the results of the NYISO studies required by 16 NYCRR 88.4 (a)(4);

k. Pre-Filed direct testimony of applicant's witnesses supporting Part A exhibits

2. Notice that the SIS/SRIS studies are in progress (study scope accepted and work underway pursuant to a Study Agreement with the NYISO); and
3. Scoping statement and schedule: Describing how and when the applicant will produce the exhibits required for the Part B filing:

   i. Exhibit 3 (86.4): Alternatives: applicant may use recent edition topographic maps (1:24,000). If any alternative is sub aquatic, applicant should use recent edition nautical charts to show any alternative route considered.(86.4)

   ii. Exhibit 4 (86.5): Environmental Impact must include: assessment of impacts on ecological, land use, cultural and visual resources; noise analysis; coastal zone consistency (including local waterfront revitalization programs and designated inland waterway areas); efforts, if any, to minimize the emissions of greenhouse gases during the construction, operation and maintenance of the proposed facility; plans to ensure facility resilience to rising water tables, flooding, ice storms, coastal storm surges, and extreme heat.

   iii. Exhibit 6 (86.7): Economic Effects of Proposed Facility

   iv. Exhibit 7(86.8 (1),(3),(5) and (6): Local Ordinances where Facility modifications being made, including statement of consultations with municipalities and local agencies, summary table of all substantive requirements, zoning designation or classification, and list of regulatory approvals.

   v. Exhibit 8(86.9): Other Pending Filings

   vi. Exhibit 9(86.10): Cost of Proposed Facility modifications.

   vii. Exhibit E-1 (88.1(e)(f)): Facility Description

   viii. Exhibit E-2 (88.2): Other Facilities

   ix. Exhibit E-3 (88.3): Underground Construction

   x. Exhibit E-5 (88.5): Effect on Communications

xi. Exhibit E-6 (88.6): Effect on Transportation

a. Notice of Application and proof of notice and service (85-2.10)

**Part A Initial Applications for projects that are not subject to Article VII must include:**

1. Links to the full text and figures of all applications submitted to any state, local or federal agency related to the proposed project.
2. A list of the permits and approvals that the project sponsor is required to obtain for the construction and operation of the project, and a schedule for the submission of any applications or other filings not provided under item 1.
3. Where a lead agency has been identified and has made a determination of significance pursuant to SEQRA, a copy of the lead agency's determination.
4. A copy of the EAF reviewed by the lead agency in making its determination, or, if a determination has not been made, a copy of the Part 1 EAF submitted to the involved agency or agencies.
5. If the lead agency's determination of significance was positive, a schedule for the preparation and submission of a DEIS or a copy of the DEIS submitted to the lead agency.
6. If an applicant has yet to receive the lead agency's determination, a description of the status of the SEQRA review (including a proposed schedule for preparation and submission of a DEIS, assuming the determination will be positive).
7. A demonstration of how and to what extent the proposed project meets the congestion relief objectives identified by the PSC in Case 12-T-0502.