

NY PSC Acts on Energy Highway Initiative

December 3, 2012

New York's "Energy Highway" continues to move forward. On October 22, 2012, the Energy Highway Task Forceⁱ presented Governor Andrew Cuomo with its *New York Energy Highway Blueprint* (Blueprint), a comprehensive plan to upgrade New York's energy infrastructure. The Blueprint aims to "add up to 3,200 megawatts (MW) of additional electric generation and transmission capacity and clean power generation through up to \$5.7 billion in private investments."ⁱⁱ The Task Force drew up the Blueprint after convening two conferences and reviewing 130 responses, provided by 85 entities, to its request for information.ⁱⁱⁱ

On November 30, 2012, the New York Public Service Commission (Commission) issued orders commencing three separate proceedings aimed at implementing key parts of the Blueprint. In announcing its actions, the Commission cited "the catastrophic devastation caused by Hurricane Sandy" as a motivating factor for implementing the Energy Highway initiative to "help create a stronger, more resilient energy infrastructure that is better able to deal with the possible impact of future storms."^{iv}

The new Commission proceedings cover three main areas: (1) to examine plans and alternatives to give downstate customers access to upstate power generation by easing transmission congestion; (2) to plan for possible major power plant retirements; and (3) to study the expansion of natural gas delivery to residences and businesses in New York State.

One of the cases commenced by the Commission is Case 12-T-0502, *Proceeding on Motion to Examine Alternating Current Transmission Upgrades*. It is intended to review specific proposals from utilities and private developers for new transmission lines and upgrades to existing facilities that will address congestion on the transmission system between Utica and New York City. The Blueprint calls for a transmission system upgrade in this corridor by building roughly \$1 billion worth of transmission projects, providing over 1,000 MW of additional transmission capacity.

Specifically, the Commission's *Order Instituting Proceeding* states, "we institute this proceeding to solicit written public Statements of Intent from developers and transmission owners proposing projects that will increase transfer capacity through the congested transmission corridor, which includes the Central East and UPNY/SENY interfaces ... and meet the objectives of the Energy Highway Blueprint." The Commission advised sponsors who require Article VII certification to submit a schedule for the submission of a complete application. All Statements of Intent must be filed with the Secretary of the Commission by January 25, 2013. The Department of Public Service (DPS) will host a Technical Conference on December 17, 2012 at the DPS offices in Albany to provide technical assistance to those submitting Statements of Intent.

The second case, Case 12-E-0503, *Proceeding on Motion of the Commission to Review Generation Retirement Contingency Plans*

, is a proceeding to develop a contingency plan in the event of the retirement of the Indian Point nuclear power plants, which the Commission forecasts could come as soon as 2015 at the expiration of its licenses. In its *Order Instituting Proceeding and Soliciting Indian Point Contingency Plan*, the Commission directed Consolidated Edison, as the local transmission owner, to work with the New York Power Authority to file a contingency plan to address the needs that would arise in the event of such a closing. The Commission stated that the contingency plan “should include the form of Request for Proposals (RFP) that would be issued to procure needed resources to address system reliability needs by the summer of 2016.” It went on to state that the contingency plan should also include “halting mechanisms” in case the Indian Point plants remain operational, thereby eliminating the need for replacement capacity. Furthermore, the Commission recommended including suggestions on improving regulatory processes to accelerate the development schedule, in light of the “aggressive timeline” that would be required should Indian Point be retired.

The third case, Case 12-G-0297, *Proceeding on Motion of the Commission to Examine Policies Regarding the Expansion of Natural Gas Service*, was commenced for the Commission’s review of regulations and policies that may unduly restrict the availability of natural gas and other factors affecting customer conversions to natural gas. The Commission noted in its *Order Instituting Proceeding and Establishing Further Procedures* that natural gas is a cleaner, more abundant, and less expensive energy source than other fossil fuels. Among areas of improvement identified by the Commission are adopting changes in the law to permit compressed natural gas (CNG) and liquefied natural gas (LNG) storage facilities to serve communities in areas that are not currently within a natural gas franchise due to remoteness or mountainous or rocky terrain. The Commission also suggested that natural gas projects that are currently in progress, or in the process of obtaining Article VII approval, should add expansion to underserved areas where possible.

The Commission directed Staff to convene a technical conference to discuss the current state of the natural gas system, current Commission and utility policies, and ways that these policies can be enhanced. The technical conference will be held at the DPS offices in Albany on Wednesday January 9, 2013. The Commission also put forward 21 questions in a request for comments. Written responses are due within 45 days of the conclusion of the technical conference.

The commencement of these new proceedings, when taken in conjunction with the Governor’s ongoing efforts to upgrade the State’s energy infrastructure and the recent response to power outages arising from severe weather events, signal the beginning of significant changes in New York’s energy policy. Building new transmission lines and other facilities, and upgrading existing ones, will be a priority for both the State and its utility companies for the foreseeable future.

ⁱ Governor Andrew Cuomo announced The Energy Highway Initiative in his 2012 State of the State address. The governor appointed the Energy Highway Task Force, consisting of the heads of the principal state agencies and authorities working in energy, economic development and the environment, to oversee the implementation of the plan. See New York Energy Highway FAQ, available at http://www.nyenergyhighway.com/Content/pdf/Energy_Highway_FAQ.pdf.

ii. Press Release, Executive Chamber of the State of N.Y., Governor Cuomo Receives Plan to Modernize the State's Energy Infrastructure and Spur Billions of Dollars in Private Sector Investment (Oct. 22, 2012), *available at* <http://www.nyenergyhighway.com/PressRoom/GovernorCuomoAnnouncesBlueprint.html>

iii. *Id.*

iv. Press Release, Pub. Serv. Comm'n, Governor's Energy Highway Gains Momentum (Nov. 27, 2012), *available at* <http://www.dps.ny.gov>.

Practices

Industries

- Construction

Attorneys

- David T. Metcalfe