

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on November 14, 2019

COMMISSIONERS PRESENT:

John B. Rhodes, Chair  
Diane X. Burman, dissenting  
James S. Alesi  
Tracey A. Edwards  
John B. Howard

CASE 17-T-0752 - Application of PSEG Long Island LLC on Behalf of and as Agent for the Long Island Lighting Company d/b/a LIPA for a Certificate of Environmental Compatibility and Public Need Pursuant to Article VII of the Public Service Law for the Western Nassau Transmission Project.

ORDER APPROVING ENVIRONMENTAL MANAGEMENT  
AND CONSTRUCTION PLAN PHASE 1

(Issued and Effective November 19, 2019)

BY THE COMMISSION:

INTRODUCTION

PSEG Long Island LLC, on behalf of and as agent for the Long Island Lighting Company d/b/a LIPA (PSEG Long Island or Applicant) is the holder of a Certificate of Environmental Compatibility and Public Need (Certificate) issued September 19, 2019 in Case 17-T-0752 by the Commission pursuant to Article VII of the Public Service Law (PSL) for the construction, operation and maintenance of a proposed new 138 kilovolt (kV) underground transmission line (the Facility) primarily within the public roadway rights-of-way (ROW) for a total distance of approximately seven miles between the East

Garden City Substation (located in Uniondale) and the Valley Stream Substation (located in Lynbrook), both in the Town of Hempstead, County of Nassau, New York (known as the Western Nassau Transmission Project or WNTP).<sup>1</sup>

The Certificate contained several requirements for compliance, including a requirement that PSEG Long Island submit for public review, inspection and comment and Commission approval, plans detailing the facility design, construction and environmental controls.<sup>2</sup> Among other things, PSEG Long Island was required to serve written notice(s) of filing the proposed Environmental Management and Construction Plan (EM&CP) on all active parties to this proceeding, on each person on the Commission's service list considered potentially affected by the subject matter in the EM&CP, and on all statutory parties to this proceeding, and to attach a copy of the notice to each copy of the proposed EM&CP.<sup>3</sup>

Further, the Applicant was directed publish the notice(s) in a newspaper or newspapers of general circulation in the vicinity of the Project. The Notice must contain a statement that any person may be heard by the Commission on any matter or objection regarding the proposed EM&CP by filing written comments with the Secretary and the Certificate Holder within 30 days of the date the proposed EM&CP was filed with the Commission (or within 30 days of the date of the newspaper notice, whichever is later).<sup>4</sup> The applicant has complied with these notice requirements. By this Order, the Commission is

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<sup>1</sup> Case 17-T-0752, PSEG LI Western Nassau Transmission Project Art. VII, Order Granting Certificate of Environmental Compatibility and Public Need (issued September 19, 2019).

<sup>2</sup> Id., Appendix D, Part C.

<sup>3</sup> Id., Certificate Condition 26.

<sup>4</sup> Id., Certificate Condition 27.

approving, in part, PSEG Long Island's proposed EM&CP for the Western Nassau Transmission Project located in the Town of Hempstead, County of Nassau, New York.

BACKGROUND

The Project as proposed and subsequently authorized by the Commission entails the construction, operation and maintenance of a new 138-kV underground electric transmission line between the East Garden City Substation (located in Uniondale), and the Valley Stream Substation (located in Lynbrook), both located in the Town of Hempstead. The Facility would be a second circuit between the two above substations, would be located wholly within the Town of Hempstead and Nassau County, New York, and would traverse the Villages of Garden City, Malverne, and Lynbrook as well as unincorporated areas in the town. The Project would be constructed primarily within municipal public roadway ROW for a total distance of approximately seven miles.

The Project will reinforce the LIPA electric transmission system in the Southwest Nassau Area and further the PSEG LI's efforts to ensure more reliable service. The Project would also address North American Electric Reliability Corporation (NERC) transmission planning reliability standards by upgrading the transmission infrastructure to maintain reliability. The Project is a permanent design solution to an existing NERC transmission planning N-1-1 thermal violation requiring corrective action to avoid a post-contingency overload on the existing East Garden City to Valley Stream line.

The construction of a new 138-kV underground transmission line from the East Garden City Substation to the Valley Stream Substation will increase the post contingency Long-Term Emergency thermal rating on the East Garden City to

Valley Stream 138-kV circuits from 291 (megawatts) MW to more than 600 MW. The construction of the Project by 2020 is also consistent with the NERC TPL-001-4 standard and PSEG LI's Transmission Planning Criteria.

The Project will include splice vaults at approximate intervals of 1,600 feet along the duct bank. The splice vault will contain the power cable splices, cable racking, and grounding accessories. Two circular openings in the splice vault roof will be used to access the interior. The openings will be covered by 36-inch cast iron lids. The Project will consist of three, 2,000 mm<sup>2</sup> compact segmental copper conductors measuring approximately 5.71 inches in diameter. The conductor will be a Milliken conductor, comprised of annealed bare copper strands. The insulation will be cross-linked polyethylene with a thickness of approximately 0.850 inches and rated at 138 kV. The jacket will be black high-density polyethylene material including a semi-conducting layer.

The Project also requires alterations at the Valley Stream and East Garden City Substations to accommodate the Facility. It will include an underground-to-overhead terminal constructed at each substation to transition the underground cable to an overhead connection. Each of the two overhead connections, one at each substation, will be tied to newly-installed 138-kV circuit breakers, switches and 138-kV bus section.

The Applicant filed its initial proposed EM&CP on August 23, 2019. Public Notice of initial filing of the EM&CP for review and comment was published in the Lynbrook/East Rockaway Herald, Malverne/West Hempstead Herald, Rockville Centre Herald, and Valley Stream Herald.<sup>5</sup> In addition, an

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<sup>5</sup> Case 17-T-0752, supra, Affidavits of Newspaper Publication for EM&CP (filed September 10, 2019).

electronic copy of the EM&CP was provided to local libraries for inspection by the public.<sup>6</sup> The Applicant served copies of the EM&CP on all parties and landowners. Subsequently, Department of Public Service Staff (Staff) had minor edits and revisions to the initial EM&CP and the Applicant submitted a revised EM&CP, filed on October 29, 2019.<sup>7</sup> As stated in PSEG LI's filing letter accompanying the revised EM&CP:

[I]n recognition that copies of the entire August 23, 2019 filing were served on and delivered to other parties and to local libraries for public access on a single CD, PSEG Long Island will promptly deliver to all recipients of the first CD another CD containing the entire filing as now corrected and revised.

The New York State Department of Environmental Conservation filed comments in support of PSEG LI's August 23, 2019 EM&CP. No other comments were received regarding the revised EM&CP.

#### LEGAL AUTHORITY

PSL §126(1) provides that the Commission may not grant a Certificate for the construction or operation of a major utility transmission facility unless it shall find and determine among other things that the facility represents the minimum adverse environmental impact. The September 19, 2019 Certificate Order adopted by the Commission provides for approved specifications for the development of EM&CPs to be acceptable and appropriate, adding that they should be applied to the facilities addressed in the September 19, 2019 Certificate Order.

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<sup>6</sup> Case 17-T-0752, supra, Certificate of Service for EM&CP Re: Libraries (filed October 29, 2019).

<sup>7</sup> Case 17-T-0752, supra, WNTP EM&CP (Revised) (filed October 29, 2019).

DISCUSSION AND CONCLUSION

As filed on August 23, 2019 and revised on October 29, 2019 the EM&CP provides both typical and site-specific techniques, procedures and requirements to be followed during the construction and maintenance of the Project. The EM&CP identifies and defines the various facilities and environmental features within the existing right-of-way (ROW) and substation upgrades, construction accesses, and provides protective measures for sensitive resources.

PSEG LI has statutory and municipal franchise rights that allow it to install permanent electric facilities in public roadway ROW along the general alignment of the proposed route of the Facility. PSEG LI has endeavored, to the extent practical, to site the Project within its franchise limits. Nonetheless, it will be necessary to install some portions of the Project and to perform construction beyond these limits, and PSEG LI has obtained or will obtain temporary construction access and workspace rights and permanent underground easement rights in areas where it does not now have such rights. PSEG LI has also identified temporary conduit fusing locations and construction laydown, storage and marshalling yards, as well as the required property rights for such activities, and indicates it has obtained or will obtain the rights to conduct those activities in such locations.

The terms of Certificate also provide for public notice of major actions after issuance; for example, Condition 33 provides that, at least two weeks before commencing site preparation, PSEG LI must notify the public of the anticipated date of commencement of site preparation. The notice shall be provided to local officials and emergency personnel along the entire Facility route, local media, local libraries, and other public places (such as post offices, community centers and

conspicuous community bulletin boards).<sup>8</sup> In addition, at least two weeks but no more than 45 days before starting construction, PSEG LI is required to provide notice, via first class mail, to owners of property on or abutting the certified Project Route. Further, PSEG LI also filed a robust outreach plan which encapsulates many of the specific outreach activities PSEG LI will undertake in providing notice, as well as, how PSEG LI will respond to customer concerns.<sup>9</sup>

In its review of the EM&CP filed on August 23, 2019, DPS Staff had minor revisions to the plan. These revisions included the need to more clearly identify certain temporary work spaces, and laydown areas. These revisions were addressed through the filing of the revised EM&CP on October 29, 2019.

Further, DPS Staff identified a section of Stewart Ave, along the project route, where construction activities associated with Horizontal Directional Drilling (HDD) may impact vehicular traffic in the surrounding area. To address the impacts the HDD may pose to local traffic, DPS Staff instructed PSEG LI to further assess the location and operation of the HDD and ways to mitigate impacts to traffic in the area of Stewart Ave, between the intersections with Clinton Road to the intersection with Coventry Place. DPS Staff instructed PSEG LI to modify its EM&CP in a way that will mitigate possible disruptions to vehicular traffic from the use of the HDD in this area.

To allow PSEG LI time to further assess traffic mitigation efforts, no construction activities, with exception

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<sup>8</sup> Case 17-T-0752, supra, Order Granting Certificate of Environmental Compatibility and Public Need (issued September 19, 2019) p. 118.

<sup>9</sup> Case 17-T-0752, supra, Outreach Plan WNTP (filed February 1, 2019).

to surveying, soils testing, and such other activities as are necessary for preparation of the final design plans shall occur in the Project area from centerline station 348+00 to station 371+00, until a revised EM&CP for this section of the route is appropriately considered by the Commission. Further, no construction activities shall occur on any other portion of the route east of station 371+00 if the potential change to the HDD entry area as a result of these modifications cause a change to the Project centerline location. PSEG LI should file with the Secretary to the Commission and provide notice of the revised EM&CP regarding this portion of the Project, consistent with the Certificate conditions in this case, to ensure the timely completion of the Project.

As such, the Commission approves PSEG LI's EM&CP, in part, excluding the Stewart Ave., portion of the Project, as described above. PSEG LI should file any revisions or additions to its EM&CP necessary to address these traffic concerns. Thus, the Commission's approval of the revised EM&CP filed on October 19, 2019 creates a phased approach, allowing PSEG LI to pursue the appropriate modifications to its EM&CP regarding Stewart Ave. Subsequent modification(s) or addition(s) to PSEG LI's EM&CP should be filed with the Commission and noticed accordingly for its consideration as part of a second or further phase of the EM&CP.

Further, as stated in the Commission's Certificate Order, the Applicant is required to file with the Commission its Spill Prevention, Control, and Countermeasure Plan (SPCC Plan).<sup>10</sup> As discussed in the Certificate Order, the Project will employ Best Management Practices and other measures to reduce or

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<sup>10</sup> Case 17-T-0752, supra, Order Granting Certificate of Environmental Compatibility and Public Need (issued September 19, 2019) p. 27.

eliminate construction related impacts and as a result impacts to soils will be minimal. As such, construction activities should be completed in a manner to minimize impacts to soil to the extent practicable. Potential impacts to soils include the possible loss of top soil through erosion or by the re-stratification of topsoil during trench backfilling, or unanticipated spills of petroleum-based products from construction equipment. These potential impacts are typically associated with any construction project. To proactively address these potential impacts, prior to any construction, the Applicant shall file with the Commission a SPCC Plan for the Department's review and acceptance.

To ensure the Applicant has complied with the requirements of this Order and the Certificate Order issued in September, specifically the filing of an acceptable SPCC Plan, the Applicant shall not commence construction until it has received a "Notice to Proceed with Construction" letter signed by the Chief of the Environmental Certification and Compliance Section of the Office of Electric, Gas and Water.

As noted above, Department Staff had minor revisions to the EM&CP that the Applicant addressed each through the filing of the revised EM&CP. Upon review, the Applicant has adequately addressed these minor revisions. Based on a review of all the documents submitted, the revised EM&CP as amended for the Project is approved, excluding the Project area of Stewart Ave between the intersections with Clinton Road to the intersection with Coventry Place as discussed above.

The Commission orders:

1. The revised Phase 1 Environmental Management and Construction Plan submitted by PSEG Long Island LLC on behalf of and as agent for the Long Island Lighting Company d/b/a LIPA

(PSEG Long Island or Applicant) is approved, excluding the Project area, as described in this Order, from centerline station 348+00 to station 371+00, associated with HDD in the Stewart Ave area.

2. No construction activities, with exception to surveying, soils testing, and such other activities as are necessary for preparation of the final design plans shall occur in the Project area from centerline station 348+00 to station 371+00.

3. No construction activities shall occur on any other portion of the route east of station 371+00 if the potential change to the Horizontal Direct Drilling entry area causes a change to the project centerline location.

4. Prior to any construction, the Applicant shall file a Spill Prevention, Control and Countermeasure Plan with the Department of Public Service Staff for its review and acceptance.

5. The Applicant shall not commence construction until it has received a "Notice to Proceed with Construction" letter signed by the Chief of the Environmental Certification and Compliance Section of the Office of Electric, Gas and Water.

6. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

7. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS  
Secretary